

LOCAL RULES
OF THE
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY



These rules are current as of August 1, 2012

Last Amended August 1, 2012

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D.N.J. LBR 1001-1 SCOPE OF RULES

These rules shall be cited as the “District of New Jersey Local Bankruptcy Rules, D.N.J. LBR ____” (hereinafter “Local Rules” or “Rules”) of the United States Bankruptcy Court for the District of New Jersey (hereinafter “Court”). These rules and the Local Civil Rules of the United States District Court for the District of New Jersey (hereinafter “District Court Rules”) shall be followed insofar as they are not inconsistent with the Bankruptcy Code (hereinafter “Code”) and the Federal Rules of Bankruptcy Procedure (hereinafter “Fed. R. Bankr. P.”). The forms shall be known as the Local Bankruptcy Forms of the United States Bankruptcy Court for the District of New Jersey “hereinafter “Local Forms”). The local forms shall be used in the circumstances indicated by the titles to such forms.

- (a) These rules shall be construed to secure the just, speedy and inexpensive determination of cases and proceedings in the Court. The application of these rules in any case or proceeding may be modified or relaxed by the Court in the interests of justice.
- (b) From time to time, the Court may issue general orders, administrative procedures, and guidelines for designating compliance with these Local Rules as set forth in the Appendices to these Rules and which are available in the Clerk’s Office and on the Court’s website, www.njb.uscourts.gov.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

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| 1997 Comment: | Formerly Local Rule 1. |
| 2001 Comment: | This Rule amendment is intended to allow the Court to issue general orders to supplement the Local Rules, such as the Court’s issuance of a general order to authorize the Court to establish practices and procedures for the filing, signing, and verification of documents by electronic means. |
| 2011 Comment: | In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of some of the Court’s General Orders should be addressed as appendices to the Local Rules. As a result, on August 1, 2011, the Court amended D.N.J. LBR 1001-1(c) to reference general orders, administrative procedures and guidelines which have been incorporated into these Local Rules by way of appendices. |
| 2012 Comment: | Because most practitioners access the Local Rules and Forms from the Court’s website, the expression “appended thereto” after the expression “The forms,” in subpart (a), is deleted. |
| Reference: | Fed. R. Bankr. P. 9029(a) Local Bankruptcy Rules. |

D.N.J. LBR 1002-1 PETITION - GENERAL

- (a) *Content.* In addition to the requirements of the Code, Federal Rules of Bankruptcy Procedure and Official Forms, every voluntary and, to the extent possible, involuntary petition shall contain the following information:
- (1) The correct name, complete street address, city, state, and zip code of the debtor. The address stated on the petition shall be the actual location of the debtor's residence or principal place of business.
 - (2) In an individual petition, the correct full first, middle, and last name and the last four digits of the social security number of the debtor.
 - (3) In a business petition, the employer's identification number of the debtor.
 - (4) In a corporate petition, the signature of an officer or other authorized representative of the corporation.
 - (5) In a corporate petition, a copy of the corporate resolution authorizing the filing.
- (b) *Involuntary Petitions.* In involuntary petitions, the above subdivisions (a) (1) through (3) apply.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Subpart (a)(1) through (a)(7) is the former Local Rule 2(b)(1)(A) through (G); Subpart (b) is the former Local Rule 2(b)(2).
- 2003 Comment: Subpart (a)(7) is deleted as duplicative of Fed. R. Bankr. P. 1008.
- 2004 Comment: Subpart (a)(2) is amended to require the last four digits of a debtor's social security number on an individual petition, in accordance with the amendments to the Federal Rules of Bankruptcy Procedure and Official Forms which became effective December 1, 2003, implementing the Judicial Conference's policy on privacy and public access to case files. Pursuant to the amendment to Fed. R. Bankr. P. 1007(f) an individual debtor must submit a verified statement that sets out the debtor's full social security number, or states that the debtor does not have a social security number. The statement is submitted, in accordance with instructions posted to the Court's website, but it is not filed in the case, and does not become a part of the Court record. Per the national rule amendment, the statement provides the information necessary to include on the service copy of the notice required under Rule 2002(a)(1). The corresponding amendment to Fed. R. Bankr.P. 1005 now provides that the caption of the petition include only the last four digits of the social security number.
- 2009 Comment: Subpart (a)(6) has been eliminated to conform with the deletion of Fed. R. Bankr. P. 1004(a).
- Reference: 28 U.S.C. § 1930(a) Bankruptcy fees; 11 U.S.C. § 301 Voluntary cases; 11 U.S.C. § 302 Joint Cases; 11 U.S.C. § 303 Involuntary cases; Fed. R. Bankr. P. 1003 Involuntary Petition; Fed. R. Bankr. P. 1004 Partnership Petition; Fed. R. Bankr. P. 1005 Caption of Petition; Fed. R. Bankr.P. 1007 Lists, Schedules and Statements, Time Limits; Fed. R. Bankr. P. 1008 Verification of Petitions and Accompanying Papers; Fed. R. Bankr. P. 9011 Signing and Verification of Orders; [Official Form 1](#).

D.N.J. LBR 1007-2 MAILING - LIST OR MATRIX

- (a) The matrix shall consist of an alphabetized mailing list of creditors equity security holders, partners and other parties in interest with complete names and addresses, including zip codes. A complete matrix shall be filed with the petition, schedules and statement of affairs. The matrix shall be supplemented when an Amendment to Schedules D, E or F is filed which adds a creditor(s).
- (b) The matrix shall be arranged in a single column on each page, left justified, with margins of at least one inch using one of the following standard fonts in 10 or 12 point size:
 - (1) Times New Roman
 - (2) Arial
 - (3) Verdana
- (c) Each name and address block shall consist of no more than five lines with at least one blank line between each block. Each line shall be no more than 40 characters in length.
- (d) A matrix submitted with a conventionally filed petition, and containing 20 or more parties shall be submitted on CD-Rom in accordance with instructions provided by the clerk. A paper copy shall also be provided.
- (e) A matrix submitted electronically shall be prepared in accordance with **instructions** provided by the clerk.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 2(c) (1) - (4).
- 2001 Comment: Subdivision (e) is intended to guide the procedure for submission of a matrix electronically.
- 2010 Comment: This rule is amended to reduce the threshold for submission of a List of Creditors on electronic media.
- Reference: Fed. R. Bankr. P. 1009 Amendments of Voluntary Petitions, Lists, Schedules and Statements; **D.N.J. LBR 1009-1.**

D.N.J. LBR 1009-1 AMENDMENTS TO LISTS & SCHEDULES

- (a) *Amendment to List, Schedule or Statement.* Whenever an amendment to the list of creditors, schedules or statement of affairs is filed pursuant to Fed. R. Bankr.P. 1009, the amendment must be verified by the debtor. The amendment shall include *only* the changes and shall indicate if changes are additions, modifications or deletions. The amendment must also be in compliance with **D.N.J. LBR 1007-2**.
- (b) *Deletion or Modification of Creditor or Creditor Information.* Whenever the listing of a creditor or other party is deleted or modified by the debtor, the debtor must provide notice to the trustee in the case, if any and to the creditor within 14 days of the date of the Court's Order Directing Service of Notice of Amendments To Schedule D, E, F, G or H or List of Creditors.
- (c) *Addition of Creditor.* Whenever a creditor is added by amendment to the debtor's list of creditors or schedules, the debtor must serve the added creditor, by mailing within 14 days from the date of the Court's **Order Directing Service of Notice of Amendments to Schedule D, E, F, G or H or List of Creditors**, a copy of the applicable Notice of Commencement of Case Under the Bankruptcy Code, Meeting of Creditors and Deadlines. In addition, in a Chapter 12 or Chapter 13 case, the debtor must serve the added creditor with a copy of the Notice of Hearing on Confirmation of Plan, if any, a copy of the last confirmed plan, if any, and a copy of the last modified plan, if any, that has been filed in the case. In a Chapter 11 case, the debtor must serve the added creditor with a copy of the last modified plan and disclosure statement, if any, and a copy of any order approving the adequacy of the disclosure statement and/or scheduling the plan for confirmation.
- (d) *Certification of Compliance.* Within 14 days of the entry of the Order Directing Service of Notice of Amendments, the debtor shall file a certification of compliance with the notice requirements of this rule.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 2(d).

2008 Comment: This rule is amended to supplement and formalize the Court's form Order Respecting Amendment in cases under Chapters 7, 11 and 13 which provides the added creditor 60 days from the date of entry of the Court's Order Respecting Amendment or the date specified in the Notice of the Meeting of Creditors whichever is later, to file a complaint objecting to discharge under 11 U.S.C. § 727(a) and 1141(d) or to determine the dischargeability of a debt under 11 U.S.C. § 523(c) if the debtor is an individual.

2012 Comment: Subsection (a) of this Rule is supplemented by specifically referencing modifications, along with additions and deletions, as amendments to the debtor's list of creditors, schedules or statement of affairs. Subsections (b) (c) and (d) of this Rule are amended to correspond to new changes to the Court's form Order Directing Service of Notice of Amendments to Schedule D, E F, G or H or List of Creditors in cases under Chapters 7, 11 and 13. Subsection (b) requires a debtor to notice the trustee in the case, if any, and the affected creditor or other party, when the debtor deletes or modifies the listing of or information about the creditor or party in the debtor's schedules. Subsection (c) addresses the debtor's responsibility to notice a creditor who is added to the debtor's schedules. In all cases under chapters 7, 11 and 13, within 14 days from the Court's entry of the Order Directing Service of Notice of Amendments, the debtor must serve, a copy of the applicable Notice of Commencement of Case Under the Bankruptcy Code, Meeting of Creditors and Deadlines upon the added creditor. Further, this subsection sets forth the additional documents that must be served upon the added creditor in cases under Chapters, 11, 12 and 13. Subsection (d) is also new and requires the debtor to file a certification of compliance with the notice requirements of this rule.

D.N.J. LBR 1019-1 CONVERSION - PROCEDURE FOLLOWING

- (a) Upon conversion of a chapter 13 case to a case under chapter 7, the chapter 13 trustee shall distribute any funds on hand to the debtor unless otherwise ordered by the Court.
- (b) Upon conversion of a chapter 13 case to a case under chapter 11, the chapter 13 trustee shall distribute any funds on hand to the debtor in possession or the chapter 11 trustee.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 34.

Reference: 11 U.S.C. § 1307 Conversion or dismissal; Fed. R. Bankr. P. 1017(d) Dismissal or Conversion of Case; Suspension; 11 U.S.C. § 704 Duties of trustees 11 U.S.C. § 1106 Duties of trustee and examiner; 11 U.S.C. § 1107 Rights, powers and duties of debtor in possession.

D.N.J. LBR 1073-1 ASSIGNMENT OF CASES

- (a) For purposes of the division of business, the Court shall be divided into three units known as "vicinages," which shall consist of the counties served by such units in the three federal Courthouses in this District.

The Newark vicinage consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex and Union Counties.

The Trenton vicinage consists of part of Burlington (except for the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset and Warren counties.

The Camden vicinage consists of Atlantic, part of Burlington (the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Camden, Cape May, Cumberland, Gloucester and Salem counties.

- (b) A petition commencing a case shall be filed in the vicinage in which the debtor resides if the debtor is an individual, or in which the debtor has its principal place of business within the District if the debtor is an entity other than an individual.
- (c) All papers in a case shall be filed in the vicinage in which the case is pending.
- (d) If the petition commencing a case states in writing that the case is related to another case which has been or is being filed in the same vicinage, the clerk shall assign the case to the judge to whom the lowest numbered related case has been assigned. All other case assignments shall be made by the random draw method used by the Court.
- (e) An application to transfer a case from one judge to another, or from one vicinage to another, shall be made to the judge to whom the case has been assigned. The application shall be on notice to the debtor, any trustee, any secured creditors, and any official committees.
- (f) If a case is dismissed, and, within 180 days of such dismissal, another bankruptcy case is filed as to the same debtor, the subsequent case shall be assigned to the same judge to whom the prior case was assigned.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 9.

2002 Comment: This Rule amendment realigns the Newark Vicinage to include the Counties of Middlesex and Union.

2007 Comment: In accordance with the Court's General Order dated September 26, 2006, the Trenton Vicinage is realigned to include the County of Middlesex effective October 1, 2006.

2012 Comment: LBR 1002-1 (a)(1) already requires the petition to list the actual location of the debtor's residence or principal place of business. Thus, this requirement is deleted from LBR 1073-1 (b).

Reference: Fed. R. Bankr. P. 5005 Filing and Transmittal of Paper

D.N.J. LBR 2004-1 DEPOSITIONS & EXAMINATION

- (a) If a party from whom an examination or document production is sought under Fed. R. Bankr. P. 2004 agrees to appear for examination or to produce documents voluntarily, no subpoena or Court order is required.
- (b) Any party in interest seeking to compel an examination or production of documents shall serve a **subpoena** pursuant to Fed. R. Bankr. P. 2004(c) without filing a motion or obtaining an order authorizing such examination or document production.
- (c) A subpoena pursuant to subdivision (b) shall not set the examination or document production for less than 14 days after service of the subpoena except by agreement of the deponent.
- (d) Upon motion of the deponent or any party in interest, the Court may quash or modify a subpoena pursuant to subdivision (b) for cause shown. The filing of such a motion prior to the date set for examination or document production shall stay the subpoena until the Court rules on the motion.
- (e) If a deponent fails or refuses to comply with a subpoena served pursuant to subdivision (b) and has not filed a motion pursuant to subdivision (d), the party who obtained the subpoena may file a motion for an order directing such examination or document production under Fed. R. Bankr.P.2004(a).

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 16.
- 2002 Comment: Subsection (e) of this rule was amended. The amendment eliminated language that held that upon motion, a deponent could be held in contempt pursuant to Fed. R. Bankr.P. 9016 and Fed.R.Civ.P. 45(c) in the event of noncompliance with a subpoena. The issuing party remains free to file a motion to enforce the subpoena in the event of noncompliance. The party to be deposed remains free to file a motion to quash.
- Reference: Fed.R.Bankr.P. 2005 Apprehension and Removal of Debtor to Compel Attendance for Examination; Fed.R.Bankr.P. 4002 Duties of Debtor; Fed.R.Bankr.P. 9001(5) General Definitions.

D.N.J. LBR 2014-1 EMPLOYMENT OF PROFESSIONALS AND LIQUIDATORS

- (a) *General Requirements.* In addition to the requirements of Fed. R. Bankr. P. 2014, an **application for an order approving employment of a professional** person shall be served upon the debtor, the trustee, the secured creditors, the official committees, and parties requesting notice of all proceedings. Except to the extent that relief is otherwise governed by Fed. R. Bankr.P. 6003, any objection to such application shall be filed and served within 7 days of the filing of the application. A hearing may be conducted on the objection in the Court's discretion.
- (b) *Auctioneers and Liquidators.*
 - (1) Auctioneers shall include all professionals who conduct public sales of estate property and who are disinterested within the meaning of 11 U.S.C. §101(14) of the Bankruptcy Code.
 - (2) Liquidators shall include all persons who liquidate estate property through public or private sale and who (a) are not disinterested or (b) are deemed to be liquidators because the court has determined that to do so would be in the best interest of the estate.
- (c) *Auctioneer Requirements.*
 - (1) An application for employment of an auctioneer shall contain the following:
 - (A) The applicant's qualifications and prior experience in connection with the liquidation or sale of similar or comparable property.
 - (B) A description of the property to be sold and its location.
 - (C) The proposed method of calculation of the applicant's compensation, including rates and formulas to be employed.
 - (D) An estimate of all costs and expenses to be reimbursed to the applicant from the proceeds of the sale including labor, security, advertising, delivery, mailing, and insurance.
 - (E) A statement as to whether the auctioneer or any of its principals have been convicted of any criminal offense, other than a motor vehicle violation.
 - (F) A surety bond in favor of such party as the court may direct in an amount at least equal to the estimated gross proceeds of sale, or proof of the existence of an adequate blanket bond. The surety bond shall be conditioned upon the faithful and prompt performance of the auctioneer's duties and the accounting for all monies and property which may come into the auctioneer's possession, control or custody and for compliance with rules, orders and judgments of the Court. The auctioneer shall certify that the bond is presently in effect, and will remain in effect through turnover of the auction proceeds.
 - (2) On the request of the applicant, the court, in its discretion, may waive the requirement that an application for compensation and reimbursement of expenses be filed under **D.N.J. LBR 2016-1**. An application for compensation must be filed under **D.N.J. LBR 2016-1** if the actual compensation or expenses exceed the estimate in the application for employment.
 - (3) The auctioneer shall file a report of the results within 21 days of the conclusion of the sale.

(d) Liquidator Requirements.

- (1) In addition to the requirements of **2014-1(c)(1)(A) through (E)**, an application to utilize the services of a liquidator to sell or liquidate assets of the estate pursuant to 11 U.S.C. § 363, or otherwise, shall contain the following:
 - (A) A full and complete disclosure of all agreements between the liquidator, its affiliates, the debtor and others, including the terms of any financing to be provided, the acquisition of an interest in property to be sold or an interest in estate property, indemnification provisions and release of claims.
 - (B) Compliance with **D.N.J. LBR 2014-1(c)(1)(F)**, unless otherwise directed by the Court.
 - (C) If the liquidator intends to conduct a Going Out of Business sale, the means by which the liquidator will address state and local regulations impacting upon the sale. The application shall also address any impact upon the debtor's leasehold agreements.
- (2) Unless otherwise ordered, the liquidator shall file a report of the results within 21 days of the conclusion of the sale. The court may require additional reports during the course of the liquidation.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Subpart (a) is former Local Rule 6; subpart (b) (1) and (2) is former Local Rule 7(a) and (b).
- 2008 Comment: Subpart (a) is amended to conform with the requirements of Fed. R. Bankr.P. 6003 which limits the granting of certain forms of relief, including the employment of professional persons, during the first 20 days after commencement of a case, unless granting of relief is necessary to avoid immediate and irreparable harm.
- 2009 Comment: The amendments to Local Rules **2014-1(b)** and **2016-1(g)** are intended to create an increased focus on the requirements for auctioneer retention while simultaneously simplifying the rule on auctioneer compensation. The auctioneer retention application must now contain a detailed estimation of fees and expenses. The application may include a request to waive the requirement of a fee application, and if the request is expressly approved by the Court, no separate application for fees needs to be filed. In such cases, pursuant to **D.N.J. LBR 2016-1(g)**, an applicant must file an Information for Notice of Auctioneer Compensation pursuant to Fed. R. Bankr.P. 2002(a)(6) at least 20 days prior to any remittance of auctioneer compensation. However, a fee application must be filed if the actual fees and expenses sought exceed the estimate in the retention application, or if the Court so directs. Previously, compensation under **D.N.J. LBR 2016-1(g)** was fixed at a declining scale commission structure. The changes allow for the approval of more flexible auctioneer compensation methods and facilitate the prompt payment of auctioneers.
- Proposed **2014-1(d)** is new and contains certain disclosure requirements for non-auctioneer liquidators. Modern practice with respect to the sale of estate assets often involves "interested" persons who cannot be retained as auctioneers under 11 U.S.C. §327, and are therefore typically engaged as "agents" or "liquidators" pursuant to Sections 363, 364 and 105 of the Bankruptcy Code. These sale arrangements can involve the liquidator taking an ownership interest in the assets to be sold, financing the debtor's operations during the conduct of the sale, or entering into a joint venture or partnering

arrangement with the debtor with respect to sharing upside proceeds arising from the sale. While the proposed rule change is intended neither to encourage nor discourage these types of arrangements, it is intended to require disclosure of the specific items enumerated in **2014-1 (d)** when any such arrangement is proposed.

Dec., 2009 Comment

This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

D.N.J. LBR 2016-1 COMPENSATION OF PROFESSIONALS

- (a) This Rule applies to any application for compensation and reimbursement of expenses from the bankruptcy estate by a professional person employed under 11 U.S.C. § 327.
- (b) The statement of services rendered and itemization of expenses in an application for compensation shall contain:
 - (1) A copy of the order of retention or authorization.
 - (2) A copy of any administrative order pertaining to interim compensation.
 - (3) The dates of services rendered.
 - (4) The services rendered on each date and the identity of the person rendering the service.
 - (5) The time spent in the rendering of each service. Computer time sheets showing the time units may be attached to the application.
 - (6) The normal billing rate for each person.
 - (7) At the end of the application, a total of the time spent by each individual performing services.
 - (8) A list of actual, not estimated, expenses, summarized by category, such as computer assisted research (which shall not be more than the actual cost), outgoing facsimile transmissions, (which shall not exceed \$1.00 per page, with no charge for incoming facsimiles), telephone charges, airfare, meals, lodging and photocopying (which shall not exceed \$.20 per page).
 - (9) A narrative explanation of the nature of the work performed and the results achieved. The narrative portion of the application shall inform the court of circumstances that are not apparent from the activity descriptions or that the applicant wishes to bring to the attention of the Court, including, but not limited to, special employment terms, billing policies, expense policies, voluntary reductions, reasons for the use of multiple professionals for a particular activity, or reasons for substantial time billed relating to a specific activity.
 - (10) Local Form, *Fee Application Cover Sheet* shall be filed with each application for compensation in excess of \$10,000.
- (c) A copy of each application for allowances shall be served on the United States Trustee at the time of filing.
- (d) No Court appearance shall be required on applications for compensation unless an objection is filed and served.
- (e) *Professionals Retained on a Commission or Contingency Basis.* A professional retained on a commission or contingency basis is exempt from the requirements of subdivisions (b)(3), (4), (5), (6), (8) and (10).
- (f) *Appraisers.* Except where a flat fee is sought, the statement of services rendered and itemization of expenses in an application for fees or expenses for appraisers shall comply with subsection (b) of this Rule. Appraisers shall include in the application the value of the appraised assets.

- (g) *Auctioneer Compensation.* In the event that, pursuant to **D.N.J. LBR 2014-1(c)**, the Court has waived the requirement that an application for compensation and reimbursement of expenses be filed under D.N.J. LBR 2016-1, an ***Information for Notice of Auctioneer Compensation*** pursuant to Fed.R.Bankr.P. 2002(a)(6), shall be filed by the applicant at least 21 days prior to remittance of auctioneer compensation. If an objection is filed, the court may require that an application for compensation and reimbursement of expenses be filed under D.N.J. LBR 2016-1 or that a hearing be held.
- (h) *Interim Applications in Chapter 11 Cases.* Authorization for allowance of compensation at intervals more frequent than is permitted by 11 U.S.C. § 331, must be sought by a motion brought under the Court's Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals, set forth in **Appendix A** to this Rule.
- (i) *Final Applications in Chapter 11 Cases.* All applications for compensation shall be filed within 90 days after the order confirming the plan becomes a final order, or such compensation request shall be deemed waived.
- (j) *Special Requirements in Chapter 13 Cases.*
- (1) *Debtor's Attorney, Generally.* If the fee of the attorney for the debtor disclosed pursuant to Fed.R.Bankr.P. 2016(b) exceeds \$3,500, the attorney for the debtor shall file and serve on the Chapter 13 trustee and the debtor an application for allowances not less than 7 days before the confirmation hearing. If the fee of the attorney for the debtor disclosed pursuant to Fed.R.Bankr.P. 2016(b) is \$3,500 or less, no application for allowance need be filed. A general overview of the legal services to be provided by the debtor's attorney in the course of the Chapter 13 case appears in the Court's Guidelines for Legal Services to be Rendered in a Chapter 13 Case, set forth in **Appendix B** to this Rule.
- (2) *Supplemental Fees.*
- (A) For supplemental fee applications of up to \$2,000 per application, the attorney for the debtor may submit Local Forms, ***Certification of Debtor's Counsel Supporting Supplemental Chapter 13 Fee and Order Granting Supplemental Chapter 13 Fees***. Such applications shall be served on the Chapter 13 trustee and the debtor. If the supplemental fee application is for an amount in excess of \$1,000, the clerk shall issue notice of hearing as required by Fed.R.Bankr.P. 2002(a)(6) for a date on which Chapter 13 cases are heard.
- (B) Any other supplemental fee applications shall be filed in accordance with subsection (A) of this Rule and shall be served on the Chapter 13 trustee and the debtor. If the supplemental fee application is for an amount in excess of \$1,000, the clerk shall issue notice of hearing as required by Fed.R.Bankr.P. 2002(a)(6) for a date on which Chapter 13 cases are heard.
- (C) Supplemental fee applications shall be submitted not more than once every 90 days.
- (3) *Residential Mortgagee's Post-Petition Preconfirmation Attorney's Fees in Proof of Claim; Waiver of and Bar to Fee-Based Claims*
- (A) A residential mortgagee's proof of claim, as initially filed or as amended, may include a claim for properly reimbursable attorney's fees and costs for post-petition preconfirmation attorney's services, in an amount not to exceed \$400.00 in lieu of the attorney filing an application for compensation under D.N.J. LBR 2016-1.

- (B) Reimbursement hereunder is permitted *only* if the following conditions are met:
- (1) The residential mortgagee has actually incurred post-petition preconfirmation attorney's fees and costs for properly reimbursable services of at least the amount sought in the proof of claim, and the services performed are separately enumerated therein;
 - (2) The claim is for services of an attorney admitted to practice before this Court pursuant to **D.N.J. LBR 2090-1**, who shall be identified in the proof of claim;
 - (3) The attorney's fees will not be split or shared with any other entity; and
 - (4) The underlying mortgage documents provide for payment of attorney's fees by the debtor under the circumstances of the debtor's Chapter 13 case, and such fee is not contrary to 11 U.S.C. § 506(b) or applicable non-bankruptcy law.
- (C) That portion of a residential mortgagee's proof of claim seeking reimbursement of attorney's fees hereunder shall be considered *prima facie* evidence of the validity and amount thereof in accordance with Fed.R.Bankr.P. 3001(f). Any party in interest may object to the allowance of the claim pursuant to 11 U.S.C. § 502(a), Fed.R.Bankr.P. 3007 and **D.N.J. LBR 3007-1**.
- (D) The proof of claim must include the following statement in conjunction with any request for reimbursement of attorney's fees: "This reimbursement is requested pursuant to D.N.J. LBR 2016-1(j)(3) and the claimant certifies that all the requirements for allowance of this fee have been met."
- (E) Any other D.N.J. LBR 2016-1 fee application for post-petition preconfirmation attorney's services and costs on behalf of the residential mortgagee in a Chapter 13 case shall not include those services and costs allowed pursuant to this subsection (j)(3).
- (F) Any and all post-petition preconfirmation claims based upon the attorney's fees and costs incurred in a Chapter 13 case by the residential mortgagee which are not applied for pursuant to this subsection (j)(3) or more generally pursuant to D.N.J. LBR 2016-1, shall be deemed waived, and the residential mortgagee shall be estopped and barred from claiming such fees and costs at any time, whether in the Chapter 13 case or otherwise.
- (5) Supplemental fee applications shall be submitted not more than once every 120 days.
 - (6) A real estate broker or debtor's real estate attorney duly retained pursuant to **D.N.J. LBR 2014-1** and whose fees are approved in an order authorizing debtor to sell real property and pay certain professionals' fees upon closing, pursuant to **D.N.J. LBR 6004-1(b)** is exempt from the requirements of this Rule.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Subparts (a) and (b), and (d) through (h) are former Local Rule 8(a) through (g); subpart (c) is former Local Rule 7(c); subpart (i) is the former Local Rule 25(c); subpart (j) is former Local Rule 33.
- 2001 Comment: Subpart (j) amended March 8, 2001; amendments include increasing the fee dollar amount from \$1,500.00 to \$2,000.00 and the addition of paragraphs (2), (3) and (4).
- 2004 Comment: Subsection (i) is amended to add reference to the Court's *General Order Adopting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals* which was implemented on March 31, 2003, and posted to the Court's web site, as one of four General Orders comprising the Court's Chapter 11 Initiative. The General Orders and related Guidelines governing Chapter 11 practice in this district are referenced at D.N.J. LBR 3016-1(e).
- [Former] Subsection (j)(5) is added for Chapter 13 cases, exempting from the requirements of this Local Rule, a real estate broker or debtor's real estate attorney duly retained pursuant to D.N.J. LBR 2014-1 and whose fees are approved in an order authorizing debtor to sell real property and pay certain professional fees at closing, pursuant to D.N.J. LBR 6004-1(b).
- 2005 Comment: Subpart (j) is amended effective August 1, 2005, to increase the fee dollar amount from \$2,000 to \$2,500.
- 2006 Comment: This rule has been substantially amended with respect to information requirements relating to compensation requests in order to aid the court in determining whether the time spent in a case, or any portion thereof, was actual, reasonable and necessary. It emphasizes activity descriptions based upon general project categories. New subdivision (b)(10) requires professionals seeking allowance of fees in excess of \$10,000, except as provided in subsection (g), to submit a summary on D.N.J. Local Form 3, which has been amended to provide greater substantive detail regarding the types of services rendered by the professional and with respect to which fees are sought. New subdivision (b)(9) expands upon the nature of the narrative portion of the application to the extent that it is intended to serve a heightened informational purpose with respect to expenses incurred and for which reimbursement is sought. Subdivision (j)(1) is amended to increase the fee dollar amount above which the debtor must file an application for allowances in Chapter 13 cases, from \$2,500 to \$3,500. Subdivision (j)(2) is amended to permit the attorney for the debtor in Chapter 13 cases to submit D.N.J. Local Forms 13 and 14 for supplemental fee applications of up to \$2,000 per application. Subdivision (j)(2)(c) is further amended to permit the filing of supplemental fee applications in Chapter 13 cases not more than once every 90 days. With the exception of subdivision (j) regarding special requirements concerning fees in Chapter 13 cases that will become effective in cases filed on or after August 1, 2006, this rule as amended shall apply to applications for compensation and expenses in cases filed on or after October 1, 2006. For cases filed before October 1, 2006, applicants may submit D.N.J. Local Form 3 in accordance with this amendment at their option.
- 2008 Comment: Subsection (j)(3) is added for Chapter 13 cases to allow a residential mortgagee to include in a proof of claim, attorney's fees in the amount of \$400.00 or less, for standard post-petition preconfirmation legal services rendered in the Chapter 13 case such as legal work relating to the filing of a proof of claim, reviewing the Chapter 13 plan, and filing an objection to the plan, without the need to file an application for allowance in accordance with D.N.J. LBR 2016-1. The amendment requires the residential mortgagee to specify the services performed in connection with the attorney's fees requested.
- This subsection pertains to the procedural requirements for including in the proof of claim, a claim for post-petition preconfirmation attorney's fees and costs, which are deemed to have *prima facie* validity pursuant to Fed. R. Bankr. P. 3001(f) subject to the right of a party in interest to file an objection to the claim in the normal course pursuant to 11 U.S.C. section 502(a), Fed R. Bankr. P. 3007 and D.N.J. LBR 3007-1.

The residential mortgagee's attorney's fees may be, absent objection, added to the arrears to be cured through the plan pursuant to 11 U.S.C. § 1322(e). In cases in which it is proposed in a plan to cure a default with respect to a residential mortgage in which a foreclosure judgment has been obtained, the amount of attorney's fees that may be sought may be limited by New Jersey Court Rule 4:42-9. In cases in which the plan does not propose to cure a default, a residential mortgagee's proof of claim may include post-petition preconfirmation attorney's fees pursuant to 11 U.S.C. section 506(b), to the extent that the creditor is oversecured. In such cases, absent objection, the secured claim may be increased by the amount of the attorney's fees.

2009 Comment:

The amendments to Local Rules 2014-1(b) and 2016-1(g) are intended to create an increased focus on the requirements for auctioneer retention while simultaneously simplifying the rule on auctioneer compensation. The auctioneer retention application must now contain a detailed estimation of fees and expenses. The application may include a request to waive the requirement of a fee application and if the request is expressly approved by the Court, no separate application for fees needs to be filed. In such cases, pursuant to D.N.J. LBR 2016-1(g), an applicant must file an Information for Notice of Auctioneer Compensation pursuant to Fed. R. Bankr. P. 2002(a)(6) at least 20 days prior to any remittance of auctioneer compensation. However, a fee application must be filed if the actual fees and expenses sought exceed the estimate in the retention application, or if the Court so directs. Previously, compensation under D.N.J. LBR 2016-1(g) was fixed at a declining scale commission structure. The changes allow for the approval of more flexible auctioneer compensation methods and facilitate the prompt payment of auctioneers.

Proposed 2014-1(d) is new and contains certain disclosure requirements for non-auctioneer liquidators. Modern practice with respect to the sale of estate assets often involves "interested" persons who cannot be retained as auctioneers under 11 U.S.C. § 327, and are therefore typically engaged as "agents" or "liquidators" pursuant to Sections 363, 364 and 105 of the Bankruptcy Code. These sale arrangements can involve the liquidator taking an ownership interest in the assets to be sold, financing the debtor's operations during the conduct of the sale, or entering into a joint venture or partnering arrangement with the debtor with respect to sharing upside proceeds arising from the sale. While the proposed rule change is intended neither to encourage nor discourage these types of arrangements, it is intended to require disclosure of the specific items enumerated in 2014-1(d) when any such arrangement is proposed.

Dec. 2009 Comment:

Subsection (g) is amended to conform with the March 26, 2009 Supreme Court approval of changes to Fed.R.Bankr.P. 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective December 1, 2009, conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

2010 Comment:

This rule is amended to eliminate the reference to D.N.J. Local Forms 3, 13 and 14, by substituting the caption of the Local Forms.

Subsection (j)(1) requires a debtor's attorney to file an application for allowances if the fee disclosed under Fed. R. Bankr. P. 2016(b) exceeds \$3500. If a debtor's attorney charges \$3500 or less for services to be rendered in a Chapter 13 case, the guidelines have been developed to list the legal services to be provided by the debtor's attorney in the course of the Chapter 13 case. The guidelines are set forth at Appendix A.

2011 Comment: The provisions of Appendix A to D.N.J. LBR 2016-1 were previously contained in the Court's General Order Adopting Guidelines Governing Procedures For Payment of Interim Compensation and Reimbursement of Expenses to Professionals. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order Adopting Guidelines Governing Procedures For Payment of Interim Compensation and Reimbursement of Expenses to Professionals should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court amended D.N.J. LBR 2016-1(h) to incorporate the provisions of the General Order, with some minor changes, in Appendix A to the rule. Pursuant to D.N.J. LBR 1001-1(b), the Court may modify any of the Guidelines and any related Forms in order to accommodate a specific case.

Reference: 11 U.S.C. § 327 Employment of professional persons; 11 U.S.C. § 328 Limitation on compensation of professional persons; 11 U.S.C. § 330 Compensation of officers; 11 U.S.C. § 504 Sharing of compensation; Fed. R. Bankr. P. 2013 Public Record of Compensation Awarded to Trustees, Examiners, and Professionals; Fed. R. Bankr. P. 2014 Employment of Professional Persons; D.N.J. LBR 2014-1, 2016-1, 6004-1, 6005-1.

APPENDIX A

GUIDELINES GOVERNING PROCEDURES FOR PAYMENT OF INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES TO PROFESSIONALS IN CHAPTER 11 CASES

The following guidelines apply to the submission of motions seeking the entry of an administrative order establishing procedures for payment of interim compensation and reimbursement of expenses to professionals pursuant to 11 U.S.C. § 105(a) and 331 for services rendered and expenses incurred during a Chapter 11 case.

A. APPLICABILITY OF GUIDELINES

1. Any professional retained in a Chapter 11 case pursuant to 11 U.S.C. § 327 and 1103 (the "Professional") may, by filing the appropriate motion seeking the entry of an administrative fee order ("Administrative Fee Order"), seek post- petition interim compensation pursuant to the within guidelines.
2. Any reference to the term "debtor" in these Guidelines shall include any trustee appointed in the case.

B. PROCEDURES FOR MONTHLY STATEMENTS

Monthly Fee Statements.

3. On or before the 25th day of each month following the month for which compensation is sought, each Professional seeking compensation pursuant to an Administrative Fee Order shall file with the Court and serve, by electronic transmission, hand or overnight delivery or by any means directed by the Court, a monthly fee and expense statement (the "Monthly Fee Statement") upon the following persons:
 - (a) the officer designated by the debtor to be responsible for such matters;
 - (b) the debtor's counsel;

- (c) counsel to all official committees;
- (d) United States Trustee's Office for Region III — Newark, NJ office; (e) counsel to any secured creditors;
- (e) counsel to any secured creditors;
- (f) counsel to all post-petition lenders or their agents;
- (g) all parties who have filed an entry of appearance and request for notices pursuant to Fed.R.Bankr.P. 2002; and
- (h) any other party the Court may so designate.

Content of Monthly Fee Statements.

- 4. Each Monthly Fee Statement shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules, with the exception that the provisions of D.N.J. LBR 2016-1(b)(9) (requiring a narrative explanation) and (b)(10) (requiring a cover sheet) are not applicable.
- 5. All timekeepers must contemporaneously maintain time entries, in increments of tenths (1/10th) of an hour, for each individual.

Objections

- 6. Any objection to a Monthly Fee Statement (the "Notice of Objection To Monthly Fee Statement") must be filed with the Court within 21 days after service of the Monthly Fee Statement (the "Objection Deadline") and served upon the Professional and the parties set forth in Section B.3 herein on or before the Objection Deadline.
- 7. The Notice of Objection To Monthly Fee Statement must set forth the nature of the objection and the amount of fees and/or expenses at issue.

Payment

- 8. Upon the expiration of the Objection Deadline, each Professional may file and serve upon each of the parties set forth in Section B.3 herein the Local Form ***Certification of No Objection*** or a Certification of Partial Objection, whichever is applicable, after which the debtor shall pay each Professional an amount equal to the lesser of (i) eighty percent (80%) of the fees and 100 percent (100%) of the expenses requested in the Monthly Fee Statement or (ii) eighty percent (80%) of the fees and 100 percent (100%) of the expenses not subject to any objection. If the debtor does not receive an objection to a particular Monthly Fee Statement, the debtor shall pay the 20% in fees remaining unpaid to each Professional subject to the approval of the Court upon the filing of the next interim or final fee application.
- 9. If the debtor receives an objection to a particular Monthly Fee Statement, the debtor shall withhold payment of that portion of the Monthly Fee Statement to which the objection is directed and pay the remainder of the fees and disbursements in accordance with Section B.8 herein.
- 10. If the parties to an objection are able to resolve the objection and if the party whose Monthly Fee Statement was objected to serves upon the parties listed in Section B.3 herein a statement indicating that the objection is withdrawn and describing in detail the terms of the

resolution, the debtor shall pay in accordance with Section B.8 herein that portion of the Monthly Fee Statement which is no longer subject to an objection.

11. If the parties are unable to reach a resolution of the objection within 21 days after the Objection Deadline, the affected Professional may either (a) file with the Court a response to the objection together with a request for payment of the difference, if any, between the fees and expenses requested in the Monthly Fee Statement and the non-objected to portion of the fees and expenses paid to the affected Professional in connection with the Statement (the "Incremental Amount"); or (b) forgo payment of the Incremental Amount until the next interim or final fee application or any other date and time so directed by the Court at which time it shall, if so requested, consider and dispose of the objection.
12. The filing and service of an objection to a Monthly Fee Statement shall not prejudice the objecting party's right to object to any fee application on any ground whether raised in the objection or not.
13. Furthermore, the decision by any party not to object to a Monthly Fee Statement shall not be a waiver of any kind or prejudice that party's right to object to any fee application.

C. FEE APPLICATIONS

14. A professional seeking interim compensation must file at four month intervals or such other intervals directed by the Court ("Interim Period") an interim fee application. Each Professional seeking approval of its interim fee application shall file with the Court and serve upon the parties listed in Section B.3 herein an interim application for allowance of compensation and reimbursement of expenses, pursuant to 11 U.S.C. § 331, of the amounts sought in the Monthly Fee Statements issued during such period (the "Interim Fee Application").
15. The Interim Fee Application must include a summary of the Monthly Fee Statements that are the subject of the request and any other information requested by the Court and comply with the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules and applicable Third Circuit law.
16. An Interim Fee Application must be filed and served within 45 days of the conclusion of the Interim Period.
17. Any Professional who fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the Administrative Fee Order until such time as the Interim Fee Application is submitted.
18. The pendency of a fee application or the entry of a Court order providing that payment of compensation or reimbursement of expenses was improper as to a particular Monthly Fee Statement shall not disqualify a Professional from further payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court. Additionally, the pendency of an objection to an Interim Fee Application or a Monthly Fee Statement will not disqualify a Professional from future payment of compensation or reimbursement of expenses, unless the Court orders otherwise.
19. Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses of any Professionals.

20. Counsel for each official committee may, in accordance with the foregoing procedure for monthly compensation and reimbursement to professionals, collect and submit statements of expenses, with supporting vouchers, from members of the committee for which it serves as counsel; provided, however, that such committee counsel ensures that these reimbursement requests comply with the applicable rules and these guidelines.
21. Each Professional may seek, in its first request for compensation and reimbursement of expenses pursuant to these guidelines, compensation for work performed and reimbursement for expenses incurred during the period of time between the commencement of the case through and including a specific date.

D. ADMINISTRATIVE ISSUES

22. Any party may object to requests for payments made pursuant to the Administrative Fee Order on the grounds that the debtor has not timely filed monthly operation reports or remained current with its administrative expenses and 28 U.S.C. § 1930 fees, or if a manifest exigency exists. Otherwise, the Administrative Fee Order shall continue and remain in effect during the pendency of the case.
23. The debtor shall report payments to Professionals on its monthly operating reports, detailed so as to state the amount paid to each Professional.
24. Time periods set forth in this Order shall be calculated in accordance with Fed.R.Bankr.P. 9006(a).
25. Fees and expenses paid to Professionals are subject to disgorgement until final allowance by the Court.
26. The debtor must serve a copy of the Administrative Fee Order upon all parties served with the underlying motion seeking an Administrative Fee Order; all affected Professionals; all parties listed in Section B.3 herein and any other party the Court shall designate.

APPENDIX B

GUIDELINES FOR LEGAL SERVICES TO BE RENDERED IN A CHAPTER 13 CASE

The legal services to be provided by the debtor's attorney in the course of the Chapter 13 case are as follows:

- a. Meet with the debtor to review the debtor's assets, liabilities, income and expenses.
- b. Analyze the debtor's financial situation, render advice to the debtor with respect to the determination of whether to file a petition in bankruptcy and what type of case to file, and review the necessary requirements and procedures of the bankruptcy process with the debtor.
- c. Timely prepare, file and serve the debtor's petition, plan, schedules, statement of financial affairs and any necessary amendments thereto.
- d. Provide to the Chapter 13 Trustee, all required documentation including payment advices, redacted tax returns, real property valuations and any other documents required by the Trustee.
- e. Appear and represent the debtor at the section 341(a) meeting of creditors and the confirmation hearing.

- f. Respond to any routine objections to plan confirmation as necessary.
- g. Advise the debtor as to the requirements of completing a course in personal financial management and filing a completed statement regarding completion of a course in personal financial management as required by Fed.R.Bankr.P. 1007(b)(7).
- h. Provide such other legal services as necessary for the administration of the case, including but are not limited to a continuing obligation to assist the debtor by the return of telephone calls, the routine answering of questions from the debtor and the receipt, review and transmission of correspondence.

D.N.J. LBR 2090-1 ATTORNEYS - ADMISSION TO PRACTICE

- (a) The bar of this Court shall consist of any attorney admitted to practice before the United States District Court for the District of New Jersey.
- (b) Attorneys may seek admission *pro hac vice* by application on 7 days notice to the debtor, any committee, the United States Trustee, and any other party as the Court may direct. The application must be accompanied by this Court's **form order for admission *pro hac vice*** as found on the Court's website www.njb.uscourts.gov.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 10, as amended.
- 2006 Comment: This rule is amended to supplement the Court's *General Order Respecting Amendment of D.N.J. L.Civ. R. 101.1(c)(3) Requiring Payment on Each Pro Hac Vice Admission to the Clerk of the District Court* (entered on December 14, 2005) which requires *inter alia*, use of the form order for Admission Pro Hac Vice.
- Dec., 2009 Comment Subsection (b) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.
- Reference: D.N.J. L. Civ. R. 101.1 Admission of Attorneys.

**D.N.J. LBR 3002.1-1 NOTICE RELATING TO CLAIMS SECURED BY SECURITY INTEREST
IN THE DEBTOR'S PRINCIPAL RESIDENCE**

- (a) *Response to Notice of Fees, Expenses and Charges.* If the debtor does not object to the *Notice of Fees, Expenses and Charges* filed under Fed. R. Bankr. P. 3002.1(c), or if the debtor's objection is overruled, the debtor shall either 1) pay all postpetition amounts included in the Notice of Fees, Expenses and Charges; or 2) enter into an agreed order allowing the charges (to be paid by the Trustee); or 3) take no action and the charges will not be paid by the Trustee and will not be deemed to have been paid upon closure or conversion of the case.
- (b) *Application of Payments.* The holder of a claim secured by a security interest in the debtor's principal residence shall apply payments from the Trustee to arrears being cured and apply payments from the debtor to post-petition monthly payments.
- (c) *Order Deeming Mortgage Current.* In addition to the provisions of Fed. R. Bankr.P. 3002.1(i). If the holder of a secured claim fails to respond to the Trustee's *Notice of Final Cure Payment* filed under Fed. R. Bankr.P. 3002.1(f), the debtor may submit a proposed order which deems the mortgage current as of the date of Notice of Final Cure Payment. The proposed order shall be served on the holder of the secured claim and the trustee. The parties served with the order shall have 7 days to file and serve an objection. A hearing may be conducted on the objection in the court's discretion.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2012 Comment: Effective December 1, 2011, the United States Supreme Court approved the adoption of *Fed. R. Bankr.P. 3002.1, Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence*. The adoption of Fed. R. Bankr.P. 3002.1 superseded the Court's General Order entered on May 21, 2009 Adopting Supplemental Chapter 13 Plan Provisions Requiring: (1) Supporting Information Concerning Proof of Claim and (2) Disclosure and Adjudication of Post-petition Mortgage Charges Pending Amendment of the Federal Rules of Bankruptcy Procedure. On November 14, 2011, the Court entered a General Order abrogating its May 21, 2009 General Order in its entirety to be effective in all cases filed on or after December 1, 2011 to conform to the effective date of Fed. R. Bankr. P. 3002.1-1. The Board of Judges seeks to implement three of the abrogated Supplemental Chapter 13 Plan Provisions, with minor revisions, through the adoption of this Local Rule.

**D.N.J. LBR 3002.1-2 TERMINATION, REINSTATEMENT OR IMPOSITION OF NOTICE
REQUIREMENTS UPON CREDITORS HOLDING CLAIMS SECURED
BY SECURITY INTEREST IN THE DEBTOR'S PRINCIPAL RESIDENCE**

- (a) *Termination of Requirements.* The entry of an order granting relief from the automatic stay as to a secured creditor shall terminate the notice requirements of Fed. R. Bank. P. 3002.1(b) and (c).
- (b) *Reinstatement of Requirements.* If an order reinstating the automatic stay as to a secured creditor in a chapter 13 case, reopening or reinstating a closed or dismissed chapter 13 case, or converting a case to chapter 13 is entered, the secured creditor shall:

Not later than 30 days after entry of the order, file a notice of payment change pursuant to Fed. R. Bankr.P. 3002.1(b) if the amount of the monthly payment changed during the period in which the automatic stay was vacated or the case was closed, dismissed or pending under any chapter other than 13, or is scheduled to change within 21 days after the entry of the order.

- (1) Not later than 180 days after entry of the order, file a notice of fees, expenses, and charges pursuant to Fed. R. Bank. P. 3002.1(c) for any fees, expenses and charges incurred during the period in which the automatic stay was vacated or the case was closed, dismissed or pending under any chapter other than 13.
- (2) Not later than 180 days after entry of the order, file a notice of fees, expenses, and charges pursuant to Fed. R. Bank. P. 3002.1(c) for any fees, expenses and charges incurred during the period in which the automatic stay was vacated or the case was closed, dismissed or pending under any chapter other than 13.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2012 Comment: This local rule is new. Fed. R. Bankr. P. 3002.1 does not address whether the Rule 3002.1 (b) and (c) notice requirements terminate upon certain events, such as the entry of an order granting a secured creditor relief from the automatic stay, or address whether the creditor has renewed notice obligations upon certain events, such as the entry of an order reinstating the automatic stay. Accordingly, this Local Rule is adopted in order to clarify that the Rule 3002.1(b) and (c) notice requirements are terminated upon the entry of an order granting a secured creditor relief from the automatic stay and that the creditor has certain notice obligations upon the entry of an order reinstating the automatic stay, reopening or reinstating a closed or dismissed case, or converting the case to chapter 13.

**D.N.J. LBR 3003-1 FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN
CHAPTER 11 REORGANIZATION CASES**

- (a) A **proof of claim** or interest required under Fed. R. Bankr. P. 3003(c)(2) shall be filed within 90 days after the first date set for the meeting of creditors called pursuant to § 341(a) of the Code.
- (b) A proof of claim arising from rejection of executory contracts or unexpired leases shall be filed within the later of:
 - (1) 30 days after the date of rejection; or
 - (2) 90 days after the first date set for the meeting of creditors called pursuant to § 341(a).

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 26.

Reference: 11 U.S.C. § 365 Executory contracts and unexpired leases; 11 U.S.C. § 501 Filing of proofs of claim or interests; Fed. R. Bankr. P. 3001 Proof of Claim; Fed. R. Bankr. P. 3002 Filing Proof of Claim or Interest.

**D.N.J. LBR 3003-2 FILING REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE
CLAIM IN CHAPTER 11 REORGANIZATION OR CHAPTER 7
LIQUIDATION CASES**

- (a) In a Chapter 11 case, absent an administrative expense claims bar date, or a provision in a confirmed plan or confirmation order directing the filing of administrative expense claims by a date certain, a request for payment of an administrative expense, permitted under §503(a) of the Code, may be filed at any time prior to entry of the confirmation order. In a Chapter 7 case, a request for payment of an administrative expense may be filed at any time prior to any administrative expense claims bar date set by the Court.
- (b) A request for payment of an administrative expense shall be filed using Local Form, *Request For Payment of Administrative Expense*.
- (c) The filing of a Request For Payment of Administrative Expense shall not result in the scheduling of a hearing on the request, but shall result in the registry of the claim on the claims docket. In order to have a hearing scheduled to consider payment of any administrative expense claim, a claimant must file a motion to compel payment in accordance with **D.N.J. LBR 9013-1**.
- (d) This Rule shall not apply to any application or request by a professional retained pursuant to a Court order in a Chapter 11 case or a Chapter 7 case for payment of fees and expenses incurred post-petition. Any such application or request by a professional for payment of administrative fees and expenses must comply with **D.N.J. LBR 2016-1**.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 2006 Comment: This rule is new. It sets forth the time and form within which requests for payment of administrative expense claims must be filed in a Chapter 11 case or a Chapter 7 case. This Rule does not apply to requests by a professional for compensation which are governed by D.N.J. LBR 2016-1.
- 2010 Comment: This rule is amended to eliminate the reference to “D.N.J. Local Form 24,” by substituting the caption of the Local Form.
- 2012 Comment: LBR 3003-2 is amended to clarify that a request for payment of an administrative expense must be filed, unless otherwise provided, prior to the entry of the confirmation order, and not merely “confirmation of a plan.”

D.N.J. LBR 3007-1 CLAIMS - OBJECTIONS

- (a) All motions with respect to chapter 11 claims shall be filed within 60 days after entry of the confirmation order.
- (b) All motions with respect to chapter 13 claims shall be filed within 60 days after the later of confirmation of the plan or the filing of the claim or amended claim.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Subpart (a) was formerly Local Rule 24(c); subpart (b) was formerly Local Rule 32.
- 2012 Comment: LBR 3007-1 is amended to clarify that motions with respect to chapter 11 claims must be filed within 60 days after the entry of the confirmation order, and not merely “confirmation.”
- Reference: 11 U.S.C. § 502(b) Allowance of claims or interests; Fed. R. Bankr. P. 3008 Reconsideration of Claims.

D.N.J. LBR 3011-1 UNCLAIMED FUNDS

- (a) Unclaimed distributions shall be deposited into the Registry without court order by filing the local form *Notice Depositing Unclaimed Funds*. The deposit shall be accompanied by a list of the payees and the amounts. All other deposits and all withdrawals shall require court order. Such orders shall specify the amount deposited or withdrawn and shall state the name, address and the last four digits of tax-payer identification number of any entity to which funds are paid.
- (b) Unclaimed funds deposited into the Registry may be withdrawn by a motion to recover unclaimed funds brought before the judge before whom the case is pending or, if the case has been closed, the chief judge in accordance with this rule.
 - (1) The motion must be brought by:
 - (A) an attorney at law admitted to practice before the United States District Court for the District of New Jersey or admitted *pro hac vice* in accordance with the provisions of Local Civil Rule 101.1 of the District Court for the District of New Jersey;
 - (B) the claimant or its legal successor; or
 - (C) the assignee of the claimant or its legal successor.
 - (2) The notice of motion shall include:
 - (A) a certification setting forth the reason for the application, including an explanation of the reason the funds were not collected originally;
 - (B) proof of the right to the original payment;
 - (C) identification of the claimant by: the last four digits of social security number, the last four digits of tax-payer identification number, certification of the claimant's authority, or similar proof; and
 - (D) proof of any name change or succession to any right to receive funds.
 - (3) Service of the notice of motion shall be upon the original claimant, any assignee thereof, the trustee in a pending case or, if known, the trustee at the time the case was closed or, if same not be known, the United States Trustee; service shall be by certified mail, return receipt requested.
 - (4) Appearance shall be necessary on the return date of the motion unless the applicant is the original entity entitled to the funds and no objection has been filed.
 - (5) All remittances shall be made payable to the claimant or the claimant and an attorney at law admitted to practice before this court.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Subpart (a) was formerly the entire text of D.N.J. LBR 3011-1.

2009 Comment: Subpart (a) has been amended to reference the requirement that deposits be made utilizing the Court's local form *Notice Depositing Unclaimed Funds*. Subparts (a) and (b)(2)(C) have

been amended to comply with Fed. R. Bankr.P. 9037 which requires that any filing made with the court may include only the last four digits of an individual's social-security number and tax-payer identification number in accordance with the policy adopted by the Judicial Conference in September 2001 to address privacy concerns resulting from public access to electronic case files.

D.N.J. LBR 3015-1 CHAPTER 13 PLAN

- (a) The Debtor shall file Local Form, *Chapter 13 Plan and Motions*.
- (b) Only motions to avoid judicial liens under 11 U.S.C. § 522(f) and to avoid liens and reclassify claims in whole or in part may be filed within the plan. If the Plan as proposed contains such motions, the Debtor must, within 21 days of the date of entry on the docket of the Notice of Hearing on Confirmation of Plan, serve each potentially affected creditor with a copy of the Plan and Local Form, *Chapter 13 Plan Transmittal Letter*. The Plan and Transmittal Letter shall be served in the manner provided for service by Fed. R. Bankr. P. 9014. The Debtor shall file a **Proof of Service** of compliance with this subsection simultaneously upon completion of service of the Plan and Transmittal Letter.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 30.
- 2003 Comment: This rule is amended to implement the use of Local Form 8 - Chapter 13 Plan and Motions and Local Form 22 - Chapter 13 Plan Transmittal Letter.
- 2009 Comment: Subsection (b) is amended to require the Debtor to file a Proof of Service of compliance with this subsection on the same day as timely service of the Chapter 13 Plan and Transmittal Letter is effectuated.
- Dec., 2009 Comment Subsection (b) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.
- 2010 Comment: This rule is amended to eliminate the references to "D.N.J. Local Forms 8 and 22, " by substituting the caption of the Local Forms.
- Reference: 11 U.S.C. § 1321 Filing of plan; 11 U.S.C. § 1322 Contents of plan; **D.N.J. LBR 3015-2**.

D.N.J. LBR 3015-2 CHAPTER 13 AMENDMENTS TO PLAN

- (a) A modification of a plan filed before confirmation which does not adversely affect creditors will be considered by the Court at the confirmation hearing scheduled for the original plan, if the modification is filed and served on the chapter 13 trustee at least 7 days before the confirmation hearing.
- (b) A modification of a plan which adversely affects creditors requires notice pursuant to Fed. R. Bankr. 2002(b).
- (c) If a plan is modified, the entire plan shall be refiled and shall indicate in its title which modified plan is being filed, such as "First Modified Plan."

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 31.

Dec., 2009 Comment Subsection (a) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: 11 U.S.C. § 1323 Modification of plan before confirmation; 11 U.S.C. § 1324 Confirmation hearing; **D.N.J. LBR 3015-1**.

D.N.J. LBR 3015-3 CHAPTER 13 CONFIRMATION

The attorney for a debtor, or a pro se debtor, shall appear at the confirmation hearing. The debtor is not required to appear if represented by an attorney.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 35.

Reference: 11 U.S.C. § 1324 Confirmation hearing; 11 U.S.C. § 1325 Confirmation of plan.

D.N.J. LBR 3015-6 OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN

- (a) An objection to confirmation of the plan shall be filed with the court and served upon the debtor, debtor's attorney, the chapter 13 trustee, and any other party in interest at least seven (7) days prior to the confirmation hearing date set in the *Notice of Hearing on Confirmation of Plan* or *Notice of Modification of Chapter 13 Plan*, whichever occurs later.
- (b) Except as provided in subsection (c) of this rule, a **proof of claim** filed that asserts a claim that is greater than, either the scheduled amount of the claim or the amount of the claim as designated in the plan serves as an objection to confirmation as to the amount of the claim, without appearance by the creditor at the confirmation hearing. The proof of claim shall be served in accordance with subsection (a) of this rule. The creditor shall file a proof of service prior to the scheduled confirmation hearing. The plan may be confirmed using the amount asserted in the proof of claim. The right of the debtor to file an objection to the allowance of a claim pursuant to **D.N.J. LBR 3007-1** is preserved, without the need for oral or written reservation at confirmation.
- (c) Where a motion to avoid liens or partially avoid liens has been filed in the plan, a proof of claim filed that asserts a secured claim that is greater than the amount to be paid in the plan serves as opposition to the motion and serves as an objection to confirmation. The proof of claim shall be served in accordance with subsection (a) of this rule. The creditor shall file a **proof of service** prior to the scheduled confirmation hearing. In order to prosecute the objection, the creditor must appear at the confirmation hearing, which shall be the hearing on the motion. Failure to appear to prosecute the objection may result in the motion being granted and the plan being confirmed pursuant to the terms as set forth in the plan.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 2001 Comment: This rule is new; it sets forth the time within which objections to confirmation of the chapter 13 plan must be filed and served.
- 2003 Comment: This rule is amended to eliminate reference the Chapter 13 Summary of Plan.
- 2005 Comment: Subsection (b) is added to allow a creditor's proof of claim in an amount different from that set forth in a debtor's Chapter 13 Plan to constitute an objection to confirmation. No further objection to confirmation of the Chapter 13 Plan need be filed. The proof of claim must be served upon the debtor, debtor's attorney, the chapter 13 trustee and any other party in interest, at least seven days prior to the confirmation hearing date set in the Notice of Hearing on Confirmation or Notice of Modification of Chapter 13 Plan whichever occurs first. Confirmation of the Chapter 13 Plan may occur using the amount listed in the creditor's proof of claim. The right of the debtor to file an objection to the allowance of a claim pursuant to **D.N.J. LBR 3007-1**, *Claims - Objections*, for 60 days post confirmation is preserved, without the need for oral or written reservation at confirmation.
- 2006 Comment: Subsection (b) is amended to clarify that where a proof of claim asserts a claim that is greater than either the scheduled amount of the claim or the amount of the claim as designated in the plan, the plan may be confirmed using the amount asserted in the proof of claim without the need for an appearance by the creditor at the confirmation hearing. By operation of the rule, the debtor's right to object to the claim is reserved for 60 days after confirmation. Subsection (c) is added to clarify and highlight that where a plan includes a motion to avoid liens or partially avoid liens, a proof of claim filed that asserts a secured claim that is greater than the amount to be paid in the plan serves as opposition to the motion and serves as an objection to confirmation. In order to prosecute the objection, the creditor must appear at the confirmation hearing, as the failure to do so may result in the plan being confirmed pursuant to the terms as set forth in the plan, including the relief sought by the motion.

D.N.J. LBR 3016-1 CHAPTER 11 PLAN

- (a) A plan proponent shall review all claims prior to filing a plan.
- (b) *Effective Date.* Unless a plan provides otherwise, its effective date shall be the date on which the order of confirmation becomes final.
- (c) *Format of Plan.* In addition to the requirements of § 1123 of the Code, a **plan** shall contain:
 - (1) A title indicating whether the plan is one of reorganization or liquidation.
 - (2) A table of contents.
 - (3) Definitions.
 - (4) Clearly numbered articles or sections.
 - (5) A signature of the proponent and the date thereof.
- (d) *Modification of Plan.* If a chapter 11 plan is modified, the entire modified plan shall be refiled and shall indicate in its title its relationship to the original plan and any previous modification, such as “First Modified Plan of Reorganization.”

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 20.
- 2004 Comment: Subsection (e) is added to formally reference within the Court’s Local Rules, the four General Orders and related Guidelines comprising the Chapter 11 Initiative implemented by the Court on March 31, 2003.
- 2012 Comment: The Rule referred, in subpart (e), to the Court’s Chapter 11 General Orders. In 2011, such Orders were incorporated into these Rules. Thus, this subpart is no longer necessary and is deleted.
- Reference: 11 U.S.C. § 1128 Confirmation hearing; **D.N.J. LBR 1001-1, 3016-2, 3018-2.**

D.N.J. LBR 3016-2 DISCLOSURE STATEMENT - GENERAL

- (a) A plan proponent shall review all claims prior to filing a **disclosure statement**.
- (b) A disclosure statement shall state the number and amount of claims of each class to which the proponent intends to object.
- (c) If a chapter 11 disclosure statement is modified, the entire modified disclosure statement shall be refiled and shall indicate in its title its relationship to the original disclosure statement and any previous modification, such as "First Modified Disclosure Statement."

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Subparts (a) and (b) formerly Local Rule 24(a) and (b). Subpart (c) formerly Local Rule 21. Former Local Rule 24(c) has been renumbered under **D.N.J. LBR 3007-1**.

Reference: 11 U.S.C. § 1125 Postpetition disclosure and solicitation; Fed. R. Bankr. P. 3019 Modification of Accepted Plan Before Confirmation in a Chapter 9 Municipality or a Chapter 11 Reorganization Case; **D.N.J. LBR 3016-1**.

D.N.J. LBR 3018-2 ACCEPTANCE/REJECTION OF PLANS

Unless the Court directs otherwise, ballots shall be filed with the attorney for the plan proponent. At or before the chapter 11 confirmation hearing, the plan proponent shall file a certification of balloting, under penalty of perjury, summarizing both the numbers and amounts of acceptances and rejections in each class, and certifying to their timely filing. The ballots shall be retained by the party completing the certification for a period of two years from the time of closing of the case. A copy of the certification shall be served on the debtor, debtor in possession, trustee, if any, United States trustee and any committee appointed pursuant to the Code, any party having filed a notice of appearance in the case, and such other persons as the Court may direct.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 22.

2004 Comment: This rule is amended as a result of the Court's transition to Case Management/Electronic Case Filing (CM/ECF). This amendment requires that unless the Court directs otherwise, ballots are to be filed with the attorney for the plan proponent. At or before the chapter 11 confirmation hearing, the certification of balloting is then filed with the court, under penalty of perjury, by the party with whom ballots have been filed. The party filing the certification, must certify to both the numbers and amounts of acceptances and rejections in each class, as well as to the timely filing of same. The ballots are to be retained by the party with whom they have been filed, for a period of two years from the date of case closing, and need not be filed with the Court. This amendment also conforms with the requirements of [Official Form 14](#) (Ballot for Accepting or Rejecting Plan) which allows for mailing of the ballot to the attorney for the plan proponent.

Reference: 11 U.S.C. § 1126 Acceptance of plan.

D.N.J. LBR 3021-1 DISTRIBUTION - UNDER PLAN (Ch. 11)

- (a) If a plan provides for distribution of property but does not designate a disbursing agent, the Court may designate a disbursing agent. The terms of any compensation to a disbursing agent shall be set forth in the plan or the order of the Court that directs the appointment of the disbursing agent.
- (b) The disbursing agent shall maintain funds for distribution to creditors and equity holders in a special account established for the exclusive purpose of making such distribution and shall make disbursements from such account only by check imprinted with the case name and the disbursing agent's name.
- (c) If the plan requires the disbursing agent to maintain funds for more than 30 days, those funds shall be held in interest-bearing accounts or certificates, and interest earned shall inure to the benefit of creditors and equity holders, unless otherwise directed by the Court.
- (d) Within 60 days after each distribution under the plan, the disbursing agent shall file and serve on the debtor, the plan proponent if other than the debtor, any official committee, and other parties as the Court may direct, Local Form, *Report of Distributions Under Confirmed Chapter 11 Plan*.
- (e) Unless the plan provides otherwise, the time period for return of unclaimed security, money, or other property in accordance with § 347(b) of the Code shall be 90 days from the date of distribution.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 23.
- 2010 Comment: This rule is amended to require the filing of a *Report of Distributions Under Confirmed Chapter 11 Plan* after each distribution is made, and to eliminate the reference to "D.N.J. Local Form 7," by substituting the caption of the form. The Local Form is also amended.
- Reference: 11 U.S.C. § 1123 Contents of plan; Fed. R. Bankr. P. 3020(a) Deposit; Confirmation of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case.

D.N.J. LBR 3022-1 FINAL REPORT/DECREE (Ch. 11)

- (a) The clerk shall close a chapter 11 case 180 days after entry of a final order confirming a plan.
- (b) On motion of a party in interest filed and served within the time period set forth in subsection (a) above, the Court may for cause extend the time for closing the case.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 25(a) and (b).

Reference: 11 U.S.C. § 350 Closing and reopening cases.

D.N.J. LBR 4001-1 AUTOMATIC STAY - RELIEF FROM

- (a) No court appearances are required for uncontested motions relating to the automatic stay.
- (b) To contest a motion relating to the automatic stay in a Chapter 13 case, the Debtor shall file and serve upon the creditor and the Chapter 13 Standing Trustee, Local Form, *Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default* at least seven (7) days before the return date if filed in opposition to a Motion for Relief from the Automatic Stay; and within 14 days of filing of a *Creditor's Certification of Default* under an *Order Resolving Motion to Vacate Stay and/or Dismiss with Conditions*.
- (c) In addition to the requirements of **D.N.J. LBR 9013-1** through **9013-3**, every motion for relief from the automatic stay shall be accompanied by a certification or affidavit and supporting exhibits which shall contain the following:
 - (1) Copies of all documents upon which the movant will rely at the time of the hearing including, where applicable, all notes, bonds, recorded mortgages with the stamped dates of recordation, security agreements, filed financing statements with the stamped dates of filing, and assignments.
 - (2) Where applicable, a statement of amount due, including a breakdown of the following categories:
 - (A) Unpaid principal.
 - (B) Accrued interest from a specific date.
 - (C) Late charges from a specific date to a specific date.
 - (D) Attorneys' fees.
 - (E) Advances for taxes, insurance and the like.
 - (F) Unearned interest.
 - (G) Per diem interest.
 - (H) Any other charges.
 - (I) Total post-petition arrearages.
 - (J) Date of last payment.
 - (3) In all cases in which the relief sought is dependent upon the secured creditor proving the amount secured by a mortgage on real estate owned by the debtor, the movant shall attach to the certification in support of its notice of motion the Local Form, *Certification Re Calculation of Amounts Due*. In Chapter 13 cases in which the relief sought is based upon a secured creditor's claim that the debtor has failed to make all post-petition payments due under the terms of the mortgage, security agreement or lease in issue, the movant shall attach to its certification in support of its notice of motion Local Form, *Certification Re Post-Petition Payment History (Note and Mortgage)* or *Certification of Secured Creditor Regarding Post Petition Payment History (Vehicle Loan/Lease)*. These Local Forms shall be certified by the secured creditor. Secured creditors shall be required to accept debtors' post petition payments, and to apply those payments to debtors' accounts; any such acceptance shall be without any prejudice to, waiver of, or estoppels as to the position of secured creditors in disputes with debtors, including payment and account disputes.

- (d) Any appraisals shall be filed and served with the moving and answering papers.
- (e) Failure to oppose a request for adjournment of a hearing on a motion for relief from the automatic stay shall be deemed to be consent to continuation of the automatic stay until the new hearing date without a Court order under section 362(e) of the Code.
- (f) Notwithstanding **D.N.J. LBR 9013-1(j)(1)**, a consent order in lieu of a motion under Code section 362(d) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 7 days to file and serve an objection. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code section 362(d).

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Subparts (a) through (d) (except (b)(3)) are former Local Rule 3 (i) (1)-(4). Subpart (e) is new and is derived from former Local Rule 3(k)(2).
- 2000 Comment: Subpart (b)(3) added.
- 2005 Comment: Subpart (a) is amended to eliminate the appearance requirement for uncontested motions relating the automatic stay. Subpart (b) was added to provide that the creditor's stay relief motion will be deemed uncontested and the creditor's appearance at the hearing will not be required unless the debtor files a *Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default* on Local Form 23 with the time periods prescribed by this subpart. Pursuant to the Court's *General Order Relating to Motions For Relief From the Automatic Stay; and Requiring the Filing of Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default and Related Forms* entered on January 4, 2005, secured creditors are required to accept debtors' post petition payments, and to apply those payments to debtors' accounts; any such acceptance is without any prejudice to, waiver of, or estoppel as to the position of secured creditors in disputes with debtors, including payment and accounting disputes.
- 2006 Comment: Subpart (c)(3) is amended to maintain and clarify the current requirement that the information contained in Local Forms 15 ("*Calculation of Amounts Due*"), 16 ("*Post-Petition Payment History Note and Mortgage*") and 16A ("*Post-Petition Payment History Vehicle Loan/Lease*") be certified by the secured creditor with personal knowledge of the calculation or payment history set forth therein, or a custodian of the secured creditor's records or other similarly qualified and authorized person having access to those records.
- Dec., 2009 Comment Subparts (b) and (f) are amended to conform with the March 26, 2009, Supreme Court approval of changes to Fed.R.Bankr.P. 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov or www.njb.uscourts.gov.

- 2010 Comment: This rule is amended to eliminate the reference to D.N.J. Local Forms 15, 16, 16A and 23, by substituting the caption of the Local Forms.
- 2011 Comment: The final sentence in subpart (c)(3) of D.N.J. LBR 4001-1 was previously contained in the Court's General Order Relating to Motions for Relief from the Automatic Stay (as amended November 25, 2009). In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order cited above should be addressed in a local rule, insofar as they do not already appear in a local rule. As a result, on August 1, 2011, the Court amended D.N.J. LBR 4001-1 to include the final sentence in subpart (c)(3).
- Reference: 11 U.S.C. § 361 Adequate Protection.

**D.N.J. LBR 4001-2 NEGOTIATIONS BETWEEN DEBTOR(S) AND MORTGAGE
SERVICER(S) TO CONSIDER LOAN MODIFICATIONS AND THE
PROCEDURE REQUIRED TO APPROVE LOAN MODIFICATIONS**

- (a) This rule applies to negotiations between debtors and mortgage servicers to consider loan modifications and to the procedure required to approve loan modifications.
- (b) Communications and/or negotiations between debtors and mortgagees/mortgage servicers about loan modifications shall not be deemed as a violation of the stay.
- (c) Any such communication or negotiation shall be subject to Federal Rule of Evidence 408.
- (d) Prior to consummation of a loan modification agreement, the agreement must be presented for approval to the Court by motion, on fourteen (14) days notice to the Standing Chapter 13 Trustee and to all creditors whose claims are secured by liens against the underlying real estate. A copy of the proposed loan modification agreement must accompany the motion. Unless an objection to the loan modification is served and filed with the Court, an order may be entered approving the proposed loan modification, which will be effective as of the date on which the motion was filed. If a timely objection is filed, the Court will schedule a hearing at the earliest opportunity.
- (e) If a loan modification approved by the Court impacts on the provisions of a Chapter 13 plan, a modified plan must be filed.
- (f) A debtor need not dismiss a pending case in order to enter into negotiations with a mortgagee/mortgage servicer, or to achieve a loan modification.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: The provisions of this local rule were previously contained in the Court's Amended General Order Regarding Negotiations Between Debtor(s) and Mortgage Servicer(s) to Consider Loan Modifications. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order cited above should be addressed in a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 4001-2 and incorporated the provisions of the General Order, with some minor changes, into the rule.

**D.N.J. LBR 4001-3 AUTOMATIC STAY – SECURED CREDITORS – PROVISION OF
MONTHLY STATEMENTS, PAYMENT COUPONS AND RELATED
NOTICES**

- (a) It shall not be a violation of the automatic stay or the discharge injunction for secured creditors to send regular monthly statements and payment coupons to individual debtors in cases under Chapter 7, Chapter 13, and Chapter 11 of the Bankruptcy Code.
- (b) In the event that debtors fail to make timely payments, it shall not be a violation of the automatic stay or the discharge injunction for secured creditors to send reminder statements, provided that the statements are informational only, and do not demand payment.
- (c) If mortgage payments include an escrow for property taxes and/or insurance, it shall not be a violation of the automatic stay or the discharge injunction for secured creditors to send any and all notices regarding the status of the escrow account(s), including notices regarding calculations of new monthly payments based on changes in property taxes or insurance premiums.
- (d) If any mortgage obligation is a variable rate mortgage, it shall not be a violation of the automatic stay or the discharge injunction for secured creditors to send notices regarding adjustments in monthly payments resulting from interest rate changes.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order Permitting Secured Creditors in Individual Cases Under the Bankruptcy Code to Provide Debtors With Monthly Statements, Payment Coupons and Related Notices Without Violating the Automatic Stay and Discharge Injunction of 11 U.S.C. § 362 and 524 Respectively (dated January 3, 2005), should be addressed in a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 4001-3 and incorporated the provisions of the General Order into this local rule. This new rule sets forth a procedural mechanism by which secured creditors may provide debtors with monthly statements, payment coupons and related notices in individual cases under Chapter 7, Chapter 13, and Chapter 11 of the Bankruptcy Code without violating the automatic stay and discharge injunction of Sections 362 and 524 of the Bankruptcy Code respectively.

D.N.J. LBR 4001- 4 USE OF CASH COLLATERAL; OBTAINING CREDIT

The Guidelines for Cash Collateral and Financing Requests, set forth in the Appendix to this Rule, apply in chapter 11 cases.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: The provisions of the appendix to D.N.J. LBR 4001-4 were previously contained in the Court's General Order Adopting Guidelines for Financing Requests. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order Adopting Guidelines for Financing Requests should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 4001-4 and incorporated the provisions of the General Order, with some minor changes, in an appendix to the rule. Pursuant to D.N.J. LBR 1001-1(b), the Court may modify the Guidelines and any related Forms in order to accommodate a specific case.

APPENDIX

GUIDELINES FOR CASH COLLATERAL AND FINANCING REQUESTS

The following guidelines apply in Chapter 11 cases and supplement the requirements of 11 U.S.C. §§ 363 and 364 and Fed.R.Bankr.P. 4001(b) and (c).

I. MOTIONS

A. MOTION CONTENT

1. Procedural Requirements

- (a) The debtor may file a single motion seeking entry of an interim order and a final order, which orders would be usually entered at the conclusion of the preliminary hearing and the final hearing, respectively, as those terms are used in Fed.R.Bankr.P. 4001(b)(2) and (c)(2). In addition, where circumstances warrant, the debtor may seek emergency relief limited to the amount necessary to avoid immediate and irreparable harm to the estate pending the preliminary hearing, but in the usual case, only a preliminary and a final hearing will be required.
- (b) If the relief is to be extended pursuant to a loan or other agreement, a copy of the agreement must be attached to the motion.
- (c) The motion must include a copy of any proposed order of which entry is sought.
- (d) The motion must be double-spaced and in compliance with applicable rules of the Court.
- (e) The motion must be supported by an affidavit.

2. Description of Use of Cash Collateral or Material Provisions of Financing

The motion must disclose, either in the text of the motion or in an attached term sheet, the following factors, if applicable:

- (a) The purpose of the borrowing or proposed use of cash collateral;
- (b) The amount owed to the lender whose cash collateral is to be used or the amount, if any, owed to the post-petition lender; the value of the collateral in which the lender has a security interest; and whether the lender's debt is undersecured or oversecured;
- (c) The amount of funds to be used or borrowed, including if applicable the committed amount, maximum borrowings (if less), any borrowing base formula, and availability of funds under the formula;
- (d) Material conditions to closing and borrowing, including any budget provisions;
- (e) Pricing and economic terms, including interest rates, letter of credit fees, commitment fees, other fees, and costs and expenses of the lender and its professionals;
- (f) Lien, security interest, or adequate protection provided to the lender; the effect of any such lien on existing liens; deemed perfection of any lien; priority or superpriority provisions; and carve-outs from liens or superpriorities;
- (g) Maturity, termination and default provisions, including events of default, effect of any such provisions on the automatic stay, and cross-default provisions; and
- (h) Any other material provisions, such as a "lockbox" provision or provision relating to allocation of debt repayments, change of control, accountings, and right of inspection; and key covenants.

3. Adequacy of Budget

The motion must disclose whether the debtor has reason to believe, after diligent consideration of all known circumstances, and in its reasonable business judgment, that the budget is achievable and will allow the debtor to operate in Chapter 11 without the accrual of unpaid liabilities.

4. Extraordinary Provisions

The motion must conspicuously disclose the terms of any Extraordinary Provisions set forth in Section II.A.

5. Efforts to Obtain Financing

A financing motion must describe in general terms the debtor's efforts to obtain financing, the basis on which the debtor determined that the proposed financing is on the best terms available, and any material facts bearing on the issue of whether the extension of credit is being extended in good faith.

6. Emergency Applications

A motion seeking entry of an emergency order or interim order must describe the amount and purpose of funds to be borrowed on an emergency or interim basis and set forth facts to support a finding that immediate or irreparable harm will be caused to the estate if immediate financing is not obtained at a preliminary hearing or on an emergency basis.

B. NOTICE

7. Notice of the hearing on (i) the interim and (ii) the final order shall be given to the persons cited in Fed.R.Bankr.P. 4001(b)(3) and (c)(3), as the case may be, the United States Trustee and any other persons whose interests may be directly affected by the outcome of the motion or any provision of the proposed order. Notwithstanding the foregoing, emergency and interim relief may be entered pursuant to Fed.R.Bankr.P. 9006(c) and [D.N.J. LBR 9013-1\(e\)](#) and after the best notice available under the circumstances; emergency and interim relief will not be considered, however, unless the Court and the United States Trustee have had a reasonable opportunity to review the motion, the applicable agreement, and the proposed interim order. Moreover, the Court usually will not approve provisions directly affecting the interests of landlords, taxing and environmental authorities, and other third-parties without notice to them.
8. Before a filing, a prospective debtor may provide substantially complete drafts of the motion, interim order, and related documents to the Office of the United States Trustee, and the United States Trustee will hold such documents in confidence and without prejudice to the prospective debtor and will attempt to comment on such documents on or shortly after the filing. The debtor is strongly encouraged to provide drafts of financing requests, including proposed orders, to the United States Trustee as early as possible in advance of filing and preferably 24 hours before the hearing.
9. The hearing on a final order will not commence earlier than 14 days after service of the motion, in accordance with Fed.R.Bankr.P. 4001(b)(2) and (c)(2), and usually will not commence until there has been a reasonable opportunity for the formation of an Official Committee of Unsecured Creditors under 11 U.S.C. § 1102 (the "Committee") and appointment of counsel by the Committee.

C. PRESENCE AT HEARING

Except as otherwise ordered by the Court:

10. Counsel for the post-petition lender or the entity whose cash collateral is to be used must be present at any hearing relating to its financing or collateral; and
11. A business representative of the debtor, lender, and any party objecting to the financing, respectively, each with appropriate authority, must be present at the hearing or reasonably available by telephone for the purpose of making any necessary decisions relating to the motion.

II. ORDERS

A. EXTRAORDINARY PROVISIONS

The following provisions in a cash collateral or financing order, or in a financing agreement to be approved under such an order, called “Extraordinary Provisions,” and justification therefor, must be conspicuously disclosed in the order. Extraordinary Provisions will not be approved in an interim order without substantial cause, compelling circumstances, and reasonable notice.

1. Cross-Collateralization

Extraordinary Provisions include provisions that elevate pre-petition debt to administrative or higher expense status or secure pre-petition debt with liens on post-petition assets where such debt would not have such status or security under the pre-petition security agreement or applicable law (for the purposes of these Guidelines, “Cross-Collateralization”), unless such status or security are limited to that necessary to accord the pre-petition lender adequate protection against a decline in the value of its collateral during the post-petition period. In connection with a request for Cross-Collateralization, the Court may consider the following factors, among others:

- (a) The extent of the notice provided;
- (b) The terms of the relief sought and a comparison to the terms that would be available absent the Cross-Collateralization;
- (c) The degree of consensus among parties in interest supporting the Cross-Collateralization;
- (d) The extent and value of the pre-petition liens held by the pre-petition lender, including in particular the amount of any “equity cushion” held by the pre-petition lender; and
- (e) Whether the Cross-Collateralization will give an undue advantage to pre-petition lender without a countervailing benefit to the estate.

An order approving Cross-Collateralization must reserve the right of the Court to unwind the post-petition protection provided to the pre-petition lender in the event there is a timely and successful challenge to the validity, enforceability, extent, perfection, priority, or amount of the pre-petition lender’s claims or liens, or a determination that the pre-petition debt was undersecured as of the petition date, and the Cross-Collateralization unduly advantaged the lender.

2. “Rollups”

Rollups include the application of proceeds of post-petition financing to pay, in whole or in part, pre-petition debt. Determination of the propriety of a rollup may take into account, to the extent applicable, the factors mentioned above in connection with Cross-Collateralization, and, in addition, the following factors:

- (a) The nature and amount of new credit to be extended, beyond the application of proceeds of post-petition financing used to pay in whole or in part the pre-petition debt;

- (b) Whether the advantages of the post-petition financing justify the loss to the estate of the opportunity to otherwise satisfy the pre-petition secured debt in accordance with applicable provisions of the Bankruptcy Code, and the burdens on the estate of incurring an administrative claim;
- (c) Whether the rollup can be unwound;
- (d) Availability of funds under the terms of the financing and a comparison to the terms that would be available in the absence of the rollup;
- (e) The extent to which pre-petition and post-petition collateral can, as a practical matter, be identified and/or segregated;
- (f) The extent to which any difficult “priming” issues would have to be addressed in the absence of a rollup; and
- (g) Whether the post-petition advances would be used to repay a pre-bankruptcy, “emergency” liquidity facility secured by first priority liens on the same collateral secured by the post-petition financing, where the pre-petition facility was provided in anticipation of, or in an effort to avoid, a bankruptcy filing.

An order approving a rollup must reserve the right of the Court to unwind the paydown of the pre-petition debt in the event there is a timely and successful challenge to the validity, enforceability, extent, perfection, priority, or amount of the pre-petition lender’s claims or liens, or a determination that the pre-petition debt was undersecured as of the petition date.

3. Waivers and Concessions as to Validity of Pre-Petition Debt

The Court usually will not consider as extraordinary the debtor’s stipulation as to validity, perfection, enforceability, priority, non-avoidability, or amount of a pre-petition lender’s claim and liens, and the lack of any defense thereto, provided that:

- (a) The Committee has a minimum of 60 days (or such longer period as the Committee may obtain for cause shown before the expiration of such period) from the date of entry of the order approving the appointment of the Committee’s counsel or the final financing order, whichever is later, to investigate the stipulation and bring as representative of the estate any appropriate proceedings; or
- (b) If no Committee is appointed, any party in interest has a minimum of 75 days (or a longer period for cause shown before the expiration of such period) from the date of entry of the final financing order to investigate the stipulation and file a motion seeking authority to bring as representative of the estate any appropriate proceedings.

The foregoing periods may be shortened in pre-packaged or pre-arranged cases for cause shown.

4. Waivers

Extraordinary Provisions include provisions that divest in a material way the Court of its power or discretion, or interfere with the exercise of the fiduciary duties of the debtor or the Committee in connection with the operation of the debtor's business, administration of the estate, or the formulation of a reorganization plan, such as provisions that deprive the debtor or the Committee of the ability to file a request for relief with the Court, to grant a junior post-petition lien or lien on property of the estate that is not otherwise subject to a lien, to obtain financing or use of cash collateral, to sell property under 11 U.S.C. § 363, or to seek avoidance arising under 11 U.S.C. §§ 544, 545, 547, 548 and 549 of any transfers made to the lender or entity whose cash collateral is to be used.

Notwithstanding the foregoing, and where duly disclosed, it will not be considered "extraordinary" for the debtor to agree to repay the post-petition financing in connection with any plan; for the debtor to waive any right to incur liens that prime or that are *pari passu* with liens granted under 11 U.S.C. § 364; and for a financing order to contain reasonable limitations and conditions regarding future borrowings under 11 U.S.C. § 364 or cash collateral usage under 11 U.S.C. § 363 (including limitations and conditions requiring consent of the lender to a particular action, subordination of future borrowings to the priorities and liens given to the initial post-petition lender, and repayment of the initial loan with the proceeds of a subsequent borrowing).

5. Section 506(c) Waivers

Extraordinary Provisions include any release, waiver, or limitation of the debtor's right to a surcharge against collateral under 11 U.S.C. § 506(c); factors to be considered in connection with any motion seeking such a waiver include whether the debtor's rights are to the extent permitted by law delegated to the Committee and whether the carve-out includes expenses under 11 U.S.C. § 726(b).

6. Liens on Avoidance Actions

Extraordinary Provisions include provisions granting liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548 and 549 (but not liens on recoveries under section 549 on account of collateral as to which the lender has a post-petition lien), and the proceeds thereof, or a superpriority administrative claim payable from the proceeds of such claims and causes of action.

7. Carve-outs

A provision relating to a carve-out will be considered "extraordinary" if it causes disparate treatment for the professionals retained by the Committee compared to professionals retained by the debtor or fails to include the fees of the U.S. Trustee, the reasonable expenses of Committee members, or reasonable fees and expenses of a trustee under 11 U.S.C. § 726(b); reasonable allocations among such expenses can be proposed, however, and the lender may refuse to include in a carve-out the costs of litigation against the lender, but not the costs of investigating whether any claims or

causes of action exist. A provision relating to a carve-out must make clear when the carve-out takes effect, and whether it remains unaltered after payment of interim fees made before an event of default under the facility, and any effect of the carve-out on availability of funds under the post-petition loan.

8. Termination: Default; Remedies

A provision is “extraordinary” if it provides that the use of cash collateral will cease, or the financing agreement will default, upon (i) the filing of a challenge to the lender’s pre-petition lien or to the lender’s pre-petition conduct; (ii) entry of an order granting relief from the automatic stay, except as to a material asset; (iii) a change of venue with respect to the case or any adversary proceeding; (iv) the filing of a motion by a party in interest seeking any relief, as distinct from an order granting such relief; (v) a management change or the departure from the debtor of any identified employee; (vi) the filing of a plan of reorganization not supported by the lender; or (vii) the appointment of a trustee or an examiner. A clause providing a reasonable maturity date for the post-petition debt or for termination of the loan or default of the post-petition debt on dismissal of the case, confirmation of a plan of reorganization or, conversion to Chapter 7 is not extraordinary. Termination of the post-petition lender’s commitment to continue to advance funds after an event of default will not be considered extraordinary, except that any termination provision must require the lender to:

- (a) provide at least seven days’ notice to the debtor and the Committee before the automatic stay terminates and the lender’s remedies can be enforced; or
- (b) provide at least three business days’ notice before use of cash collateral ceases, provided that the use of cash collateral conforms to any budget in effect.

B. EFFECT OF INTERIM ORDERS

9. An interim order will not be binding with respect to the provisions of the final order provided that (i) the lender will be afforded the benefits and protections of the interim order, including a lender’s protection under 11 U.S.C. §§ 364(e) and 363(m) with respect to obligations incurred during the interim period, and (ii) the interim order will not bind the lender to advance funds pursuant to a final order containing provisions contrary to or inconsistent with the interim order.

C. PROVISIONS IN ORDERS

10. Local Form

The debtor should submit with the motion, if applicable, the Local Form *Interim Order Authorizing Use of Cash Collateral*.

11. Findings of Fact

The order must limit recitation of findings to essential facts, including the facts required under 11 U.S.C. § 364 regarding efforts to obtain financing on a less onerous basis and, if necessary, facts sufficient to support a finding of good faith under 11 U.S.C. § 364(e). Non-essential facts regarding pre-petition dealings and agreements may be included under the rubric of “stipulations” between the debtor and the lender or “background.” An emergency or interim order must include a finding that immediate and irreparable loss or damage will be caused to the estate if immediate use of cash collateral is not allowed or if immediate financing is not obtained and state with respect to notice only that a hearing was held pursuant to Fed.R.Bankr.P. 4001(b)(2) or (c)(2), that notice was given to certain parties in the manner described, and that the notice was, in the debtor’s belief, the best available under the circumstances. The final order may include factual findings as to notice. The order must not incorporate by reference or refer to specific sections of a pre- or post- petition loan agreement or other document without a summary of the sections. The order must not contain any findings or provisions extraneous to the use of cash collateral or to the financing.

12. Decretal Provisions

The order must specify, in particular: any Extraordinary Provisions; any priorities or collateral granted; any effect of the borrowing on pre-existing liens; bankruptcy-specific events of default and the consequences thereof; any provisions relating to adequate protection; any acknowledgments or stipulations by the debtor as to pre-petition debt; the purpose for which the loan is being made; and any restrictions on use of borrowings. The order may permit the parties to enter into waivers or consents to the loan agreement or amendments thereto provided that (i) the agreement as so modified is not materially different from that approved, (ii) notice of any waivers, consents, or amendments is filed with the Court, and (iii) notice of any waivers, consents, or amendments, other than those that are ministerial or technical and that do not adversely affect the debtor, is provided in advance to the Committee’s counsel, all parties requesting notice, and the U.S. Trustee.

13. Conclusions of Law

Unless the court finds otherwise, the interim order must not state that the Court has examined and approved the loan or other agreement; it may say, however, that the debtor is authorized to enter into the agreement. The interim and final orders will be sufficient if they state that the debtor is authorized to borrow on the terms and conditions of the loan or other agreement.

14. Order to Control

The order must state that to the extent the loan or other agreement differs from the order, the order will control.

15. Statutory Provisions Affected

The order must specify those sections of the Bankruptcy Code relied upon, and identify those sections being limited or abridged to the extent permitted by law.

16. Conclusions of Law Relating to Notice

The final order may contain conclusions of law with respect to the adequacy of notice under 11 U.S.C. § 364, Fed.R.Bankr.P. 4001, and [D.N.J. LBR 4001-4](#).

D. SMALLER CASES

17. The debtor may submit a simplified order if appropriate, particularly in smaller cases and in connection with the debtor's use of cash collateral not involving the extension of new funds.

D.N.J. LBR 4001-5 LOSS MITIGATION PROGRAM AND PROCEDURES

The **Loss Mitigation Program and Procedures**, as set forth on the Court's website, www.njb.uscourts.gov, apply in Chapter 7, 13 and individual Chapter 11 cases.

2012 Comment:

In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the Court's Loss Mitigation Program and Procedures should be referenced in a local rule. Because the provisions of the Loss Mitigation Program and Procedures are continuing to evolve however, the Court opted for the annual rule making cycle 2012, to maintain the provisions of the General Order Adopting Loss Mitigation Program and Procedures dated July 29, 2011 as posted on the Court's website, as opposed to incorporating these provisions into an appendix to this local rule.

D.N.J. LBR 5005-1 FILING AND TRANSMITTAL OF PAPERS

Electronic filing is required subject to administrative procedures as issued by the Court, set forth in the [Appendix](#) to this Rule. Documents shall be filed, signed, or verified by means that are consistent with such administrative procedures. Amendments to the administrative procedures by means of general orders may be entered from time to time in keeping with the needs of the Court.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2001 Comment: This Rule is new and provides the general authority for electronic filing as authorized under Fed. R. Bankr. P. 5005(a)(2).

2011 Comment: This Rule is amended to reflect the fact that electronic filing is mandatory in this District. Effective October 1, 2003, the Board of Judges of the United States Bankruptcy Court for the District of New Jersey, approved a transition in procedure which requires mandatory electronic filing for attorneys who regularly practice before the Court. This transition requires attorneys to become trained and certified “Participants” of CM/ECF. For purposes of this requirement, an attorney is considered to “regularly practice” before the New Jersey Bankruptcy Court, if the attorney files ten (10) or more pleadings in a twelve month period with the Court. In addition, the provisions of the appendix to this Rule were previously contained in the Court’s General Order (Electronic Filing Procedures), dated March 27, 2002. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court’s General Order (Electronic Filing Procedures), dated March 27, 2002 should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court amended D.N.J. LBR 5005-1 to incorporate the provisions of the General Order into the Court’s Administrative Procedures updated August 1, 2011. The Administrative Procedures incorporate the provisions of the Court’s original General Order (Electronic Filing Procedures), dated March 27, 2002 and are available at the Appendix to this Rule and on the Court’s website, www.njb.uscourts.gov.

Reference: Fed. R. Bankr. P. 5005(a)(2).

APPENDIX

ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING AND VERIFYING DOCUMENTS BY ELECTRONIC MEANS

I. REGISTRATION FOR THE ELECTRONIC CASE FILING SYSTEM

A. Designation of Cases.

1. All pending and newly filed cases and adversary proceedings shall be assigned to the Electronic Case Filing System ("ECFS").

B. Registration.

1. Each approved participant ("Participant") will be assigned one or more login password combinations to permit electronic filing and retrieval of pleadings and other documents in the ECFS. The Court reserves the right to change the assigned ECFS login from time to time as may become necessary.
2. A registration form, will be available electronically, and shall be submitted for each Participant.
3. All registration forms shall be electronically mailed to the Office of the Clerk, at the following e-mail address: cmecf_help_desk@njb.uscourts.gov.
4. Each Participant registering for the ECFS will receive notice by electronic mail from the Office of the Clerk indicating the Participant's assigned ECFS login and password combination. This login and password combination, as initially assigned, will be used for training purposes only, and will not be activated for use on the ECFS until the Participant is approved for use on the ECFS by the Court in accordance with the training as set forth in the ECFS User's Guide. Only the Participant, or an authorized representative, may receive the electronic notice of the assigned login and password combination.
5. Participants may find it desirable to change their passwords periodically. This can be done as set forth in the [ECFS User's Guide](#). In the event a Participant believes that the security of an existing password has been compromised, the Participant shall give immediate notice to the Clerk of the Court in order to prevent access to the ECFS by use of that password. Such notice may be given to the Clerk of the Court either by telephone to the telephone number(s) set forth in the User's Guide for such purpose; or by electronic mail to cmecf_help_desk@njb.uscourts.gov.
6. Participants in the ECFS, by accepting a login and password from the Court, waive the right to receive notice by first class mail, including notice pursuant to Fed. R. Bankr. P. 2002(a), and agree to receive notice electronically. Participants in the ECFS, by accepting a login and password from the Court, also waive their right to service by personal service or first class mail and agree to electronic service, except with regard to service of a process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004 and the initiating motion in a contested

matter under Fed. R. Bankr. P. 9014. The waiver of service and notice by first class mail includes notice of the entry of an order of judgment under Fed. R. Bankr. P. 9022.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. Filing.

1. Except as expressly provided for in paragraph III.A. below, *Conventional filings*, any Participant who is registered with ECFS shall electronically file all petitions, motions, pleadings, memoranda of law, or other documents in the ECFS. Emergency motions, supporting pleadings and objections may also be filed electronically as provided in these *Administrative Procedures*.
2. All documents that form part of the pleading and which are being filed at the same time, and by the same party, shall be electronically filed as individual documents, as attachments to the initiating pleading, under one docket entry, e.g. the motion, supporting affidavit, memorandum of law, and proposed form of order.
3. Electronic transmission of a document to the Electronic Case Filing System (“ECFS”) consistent with the Local Rules and *Administrative Procedures* of this Court, together with the transmission of a Notice of Electronic Filing (“Notice of Electronic Filing”) from the Court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed. R. Bankr. P. 5003.
4. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court and the filing party is bound by the document as filed.
5. Filing a document electronically does not alter the filing deadline for the document. Filing must be completed before midnight in order to be considered timely filed that day.

B. Service.

1. General Rule: Except as otherwise provided in paragraph 2 below, *Consent to Electronic Service*, all documents required to be served shall be served in paper (i.e. “hard copy”) form in the manner mandated by the applicable law and rules.
2. Consent to Electronic Service: Whenever service is required to be made on a person who has agreed to electronic service as defined at paragraph I.B.6 above, the Court’s automatically generated “Notice of Electronic Filing” constitutes service. If ECFS is impracticable, service may be made by hand or by any other means authorized by Fed. R. Bankr. P. 7005.
3. In addition to electronic service by the ECFS as identified in paragraph 2, service of documents in hard copy, shall be required in the following circumstances:
 - a) Service is required to be made in accordance with Fed. R. Bankr. P. 7004, 9014 and 9016.

- b) The Federal Rules of Bankruptcy Procedure, District of New Jersey Local Bankruptcy Rules, or an order of the Court requires delivery or service upon a state or federal governmental entity, including, the United States Attorney.

C. Signatures.

1. Filing any document using a login and password issued by the Court, shall constitute the Participant's signature for purposes of signing the document under Fed. R. Bankr. P. 9011. The name of the Participant under whose login and password the document is submitted must be displayed by an "/s/" and typed in the space where the signature would otherwise appear, e.g., "/s/Jane Doe." No Participant shall knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized employee of his/her firm.
2. Documents that are electronically filed and require original signatures, other than that of the Participant ("third party signatures"), must be maintained in paper form by the Participant for a period not less than seven years from the date of closure of the case or proceeding in which the document is filed. Upon request, the original document must be provided to other parties or the court for review. The document requiring third party signatures must be electronically filed either by (1) submitting a scanned document containing the third party signature; or (2) by submitting a document displaying the name of the person signing the document, preceded by an "/s/" and typed in the space where the signature would otherwise appear, e.g., "/s/Jane Doe."
3. Facsimile Signatures: If an Affiant has properly executed an affidavit, certification, declaration or any other pleading required to be signed under oath or penalty of perjury (but expressly excluding petitions to commence a bankruptcy case), and the attorney, as an approved Participant of the Court's ECFS, seeking to electronically file such a document with the Court has not received the original, then the document or pleading may be electronically filed by the Participant upon receipt of a facsimile of the original signature only if attached thereto is a certification of the Participant electronically filing the document or pleading certifying that:
 - a) The Affiant has acknowledged the genuineness of the original signature;
 - b) The original document was executed in completed form prior to facsimile transmission; and
 - c) The document or a copy with an original signature affixed to it will be obtained by the Participant within seven business days after the date the document or pleading with the facsimile signature was electronically filed with the Court.

D. Fees Payable to the Clerk.

For filings that require a fee, application for authorization of credit card payment must be completed through the registration process.

E. Orders.

All proposed forms of orders shall be submitted electronically as outlined below.

1. Electronically submitted orders must comply with all Local Bankruptcy Rules. Subject to the requirements of paragraph 3 below, *Orders Shortening Time* must be electronically filed with the moving papers in a form substantially the same as Local Forms *Application for Order Shortening Time* and *Order Shortening Time Period for Notice and Setting Hearing* as required by *D.N.J. LBR 9013-1(e)*. Orders to Show Cause shall be limited to adversary proceedings in accordance with *D.N.J. LBR 9013-1(e)* and *D.N.J. LBR 9075-1*.
2. With the exception of Consent Orders, and Orders submitted under *D.N.J. LBR 9072-2*, electronically filed proposed forms of order shall be combined with the application or motion into one docket entry in accordance with Paragraph II.A.2 of these *Administrative Procedures*.
3. Electronically submitted orders shall be formatted in accordance with template instructions provided by the Clerk.
4. All orders, including consent orders, must be in PDF text format at the time of submission.
5. The Court will make an electronic copy of the proposed form of order as submitted by the Participant, and sign same electronically by affixing the signature of the presiding judge. Once signed, the Office of the Clerk or the Judge will make the appropriate entry on the ECFS to docket the order.
6. Where a Participant seeks the entry of an emergent order, such as an order shortening time or order to show cause through the ECFS, the Participant shall simultaneously bring such filing, once submitted, to the attention of the Judge's Courtroom Deputy at the e-mail addresses set forth in the User's Guide.
7. Notification of defects in an order may be provided by e-mail.
8. Service of signed orders is to be effectuated by the Clerk electronically to Participants.
9. All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these *Administrative Procedures*, which shall constitute entry of the order, decree, judgment, or proceeding on the docket kept by the Clerk under Fed. R. Bankr. P. 5003 and 9021.
10. All signed orders will be filed electronically by the Court or Court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner. A Participant submitting a document electronically that requires a judge's signature, must deliver the document in accordance with these *Administrative Procedures*.
11. Immediately upon the entry of an order of judgment in the ECFS, the Clerk will transmit to Participants in the case, in electronic form, the Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The Clerk must give notice in paper form, in accordance with the Federal Rules of Bankruptcy Procedure, to a person

who has not agreed pursuant to these *Administrative Procedures*, to receive electronic notice and service.

F. Consent Orders.

Consent orders shall be circulated and signed conventionally. The Participant shall submit a copy of the consent order, in the manner set forth in the User's Guide, to the presiding judge's electronic mailbox designated for such purpose. The original consent order, bearing original signatures of the consenting parties, shall be maintained by the Participant for a period of time prescribed in subparagraph II.C.2 of these *Administrative Procedures*. The Participant must also simultaneously file with the Court, a *Certificate of Consent*, which certifies that the signatories have affixed their consent, and that the Participant will retain the original consent order as executed by the parties for the period of time required under subparagraph II.C.2 of these *Administrative Procedures*. For the Court's ease of reference, in addition to the electronic filing of the Certificate of Consent, a chamber's copy of the Certificate of Consent must be annexed by the Participant to the copy of the consent order sent to the presiding judge's electronic mailbox.

G. Exhibits.

Documents, including proofs of claim, should be filed electronically in PDF text format on the ECFS. Exhibits should be submitted electronically as attachments to the document or proof of claim, and if originally produced in hard copy (paper) format exceeding 20 pages in length, shall, with the exception of fee applications, include only those excerpts of each exhibit that are directly germane to the matter under consideration by the Court. Such exhibits must be clearly and prominently identified as excerpts, and, with the exception of attachments to proofs of claim, the complete exhibit must be made available as a chambers' copy provided to the Court. Upon request of chambers, all exhibits to documents, including proofs of claim, must be made available forthwith to counsel upon request, and at any hearing pertaining to the matter. Persons filing excerpts of exhibits do so without prejudice to their right to file additional excerpts or the complete exhibit with the Court at any time. Opposing parties may file additional excerpts if they believe that they are germane.

If the entire exhibit is deemed germane to the documents being submitted and the exhibit is in a format that must be electronically imaged, the attorney shall make every effort to electronically image the document(s), including utilization of the Court's facilities.

H. Title of Docket Entries.

The person electronically filing a pleading or other document will be responsible for designating a title for the document by using one of the main categories and specific events provided in the ECFS, as e.g. motion for relief from stay, application for retention of counsel, etc.

III. CONVENTIONAL FILING OF DOCUMENTS

A. Conventional Filings.

The following documents shall be filed conventionally and not electronically unless specifically authorized by the Court;

1. Document(s) to be filed under seal. However, a motion to file documents under seal may be filed electronically. The order of the Court authorizing the filing of such document(s) under seal may be filed electronically by the presiding judge. A paper

copy of the order shall be attached to the document(s) under seal and be delivered to the Clerk of Court.

IV. PUBLIC ACCESS TO THE DOCKET

A. Internet Access.

Any person or organization, may access the Court's Internet site at: www.njb.uscourts.gov. Access to the docket through the Internet site will require registration with the Pacer Billing Center (1-800-676-6856).

B. Public Access at the Court.

Access by the public to the documents filed in the ECFS and to the ECFS docket is available in the Office of the Clerk for viewing during regular business hours, Monday through Friday.

C. Conventional Copies and Certified Copies.

Conventional copies and certified copies of the electronically filed documents may be purchased during business hours, Monday through Friday, at the Office of the Clerk at any one of the following locations:

Martin Luther King, Jr. Federal Building
50 Walnut Street
Newark, New Jersey 07102

Clarkson S. Fisher U. S. Courthouse
402 East State Street
Trenton, New Jersey 08608

U.S. Federal Building
401 Market Street
Camden, New Jersey 08101-2067

The fee for copying and certification is in accordance with 28 U.S.C. § 1930.

V. TECHNICAL FAILURE

A Participant whose filing is made untimely as a result of a technical failure may seek appropriate relief from the Court.

D.N.J. LBR 5005-2 FILING PAPERS - NUMBER OF COPIES

An original and one copy of the petition, statement of financial affairs and schedules are required for filing in hard copy in cases under Chapters 7, 9, 11, 12 and 13.

Only the originally filed petition, statement of financial affairs and schedules are required for filing electronically in cases under Chapter 7, 9, 11, 12 and 13.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 2(b)(3).

2003 Comment: This rule is amended to recognize the reduced number of copies of petitions, statements of financial affairs and schedules required due to the implementation of the Court's Electronic Case Filing System (ECF).

D.N.J. LBR 5005-3 FILING PAPERS - SIZE OF PAPERS

All petitions, pleadings, schedules and other papers shall be of standard letter size (8-1/2 x 11 inches).

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly part of Local Rule 2(a)(1).

D.N.J. LBR 5011-1 WITHDRAWAL OF REFERENCE

A motion for withdrawal of the reference of a case or proceeding shall be filed in the bankruptcy court in the form and manner prescribed by **Local Civil Rules** 5.1, 7.1, 10.1, 11.1 and 78.1 of the District Court Rules. All such motions are then to be immediately transmitted to the district court.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 14.

Reference: 28 U.S.C. § 157 Procedures; Fed. R. Bankr. P. 5005(c) Filing and Transmittal of Papers.

D.N.J. LBR 5071-1 CONTINUANCE

- (a) An adjournment request shall be made no later than 3 business days before the hearing date. Before requesting an adjournment, the requesting party shall attempt to obtain the consent of the other parties and inform the Court of their position, including the reasons for any opposition.
- (b) If a request cannot be presented to the Court within the time period provided in (a), the parties shall appear on the hearing date. The adjournment request will be considered at that time.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 11.

Dec., 2009 Comment Subsection (a) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub . L. N o. 111-06). T he law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: Fed.R.Bankr.P. 9006(a) Time.

D.N.J. LBR 6003-1 RELIEF IMMEDIATELY FOLLOWING THE COMMENCEMENT OF THE CASE

The Guidelines Governing First Day Matters, set forth in Appendix A to this Rule; the Guidelines Governing Complex Chapter 11 Cases, set forth in [Appendix B](#) to this Rule; and the Guidelines Establishing Case Management and Administrative Procedures for Cases Designated as Complex Chapter 11 Cases, set forth in [Appendix C](#) to this Rule, apply in qualifying Chapter 11 cases.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: The provisions of the appendices to D.N.J. LBR 6003-1 were previously contained in the Court's General Order Adopting Guidelines Governing First Day Matters and General Order Governing Procedures for Complex Chapter 11 Cases. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Orders cited above should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 6003-1 and incorporated the provisions of the General Orders, with some minor changes, in appendices to the rule. Pursuant to D.N.J. LBR 1001-1(b), the Court may modify any of the Guidelines and any related Forms in order to accommodate a specific case.

APPENDIX A

GUIDELINES GOVERNING FIRST DAY MATTERS

The following guidelines apply in Chapter 11 cases.

A. DEFINITION

1. A "First Day Matter" is defined as a motion filed simultaneously with the Chapter 11 petition, which in the opinion of counsel, requires expedited consideration by the Court within two business days of the filing.
2. First Day Matters seeking extraordinary relief will be granted in the Court's discretion only upon good cause shown.

B. FILING AND SERVING THE MOTION AND OBJECTIONS/RESPONSES

3. If a Chapter 11 debtor has matters requiring expedited consideration by the Court at the beginning of a case, it should file the Local Form *[Application for Expedited Consideration of First Day Matters](#)*, together with the Local Form *[Order Regarding Application for Consideration of First Day Matters](#)* with a blank return date. The Court will treat the Application as a motion under Fed.R.Bankr.P. 9006(c) and D.N.J. LBR 9013-1(e) for an order shortening time on a hearing.
4. First Day Matters must be supported by certification(s).
5. The debtor shall, simultaneously with the filing of the Application for Expedited Consideration of First Day Matters, serve by electronic transmission, telecopy, hand delivery or overnight mail a copy of the Application and supporting documents upon all affected parties and the United States Trustee.

6. If the debtor determines that its case may require special scheduling and other procedures, it should simultaneously file the Local Form *Application for Designation As Complex Chapter 11 Case* in accordance with the Guidelines Governing Complex Chapter 11 Cases, set forth in **Appendix B** to D.N.J. LBR 6003-1.

C. ENTRY AND SERVICE OF ORDER

7. At or immediately after the hearing on the First Day Matters, the Court may enter the Local Form *Order Regarding Application for Expedited Consideration of First Day Matters*.
8. Upon receipt of the Order, the debtor's counsel shall immediately serve by electronic transmission, telecopy, hand delivery or overnight mail a copy of the Order upon all affected parties and the United States Trustee.
9. If the Court finds that a matter does not require immediate consideration, but does require hearing on an expedited basis, it may designate in the Order a hearing date and time for the matter and a deadline for filing and serving an objection and/or response to the matter.

APPENDIX B

GUIDELINES GOVERNING COMPLEX CHAPTER 11 CASES

The following guidelines apply in Complex Chapter 11 cases.

1. A "Complex Chapter 11 Case" is defined as a case pending in the District of New Jersey under Chapter 11 of the Bankruptcy Code that may require special scheduling and other procedures because of the existence of one or more of the following factors:
 - (a) The size of the case in terms of assets, liabilities or number of creditors and/or parties in interest;
 - (b) The fact that claims against the debtor and/or equity interests in the debtor are publicly traded; or
 - (c) The case, for reasons satisfactory to the Court, would be more efficiently administered as a Complex Chapter 11 Case.
2. If a Chapter 11 debtor believes that the case should be classified as a Complex Chapter 11 Case, it shall file, with the Chapter 11 petition, the Local Form *Application for Designation as Complex Chapter 11 Case*.
3. If a Chapter 11 debtor has matters requiring expedited consideration by the Court, it should simultaneously file the Local Form *Application for Expedited Consideration of First Day Matters* in accordance with the Guidelines Governing First Day Matters, set forth in **Appendix A** to D.N.J. LBR 6003-1.
4. If the Court determines that the case does not qualify as a Complex Chapter 11 Case, it may enter the Local Form *Order Denying Complex Chapter 11 Case Treatment*. If the Court determines that the case qualifies as a Complex Chapter 11 Case, it may enter the Local Form *Order Granting Complex Chapter 11 Case Treatment*.

5. Upon receipt of the Order, the debtor's counsel shall, within one business day, serve by electronic transmission, telecopy, hand delivery or overnight mail a copy of the Order Granting or Denying Complex Chapter 11 Case Treatment on all affected parties and the United States Trustee.
6. At the hearing on First Day Matters, the debtor's counsel shall:
 - (a) Request the entry of a proposed case management order in accordance with the instructions set forth in the Guidelines Establishing Case Management and Administrative Procedures for Cases Designated As Complex Chapter 11 Cases, set forth in [Appendix C](#) to D.N.J. LBR 6003-1; and
 - (b) Submit, within the time prescribed by the Court, a proposed case management order in accordance with said Guidelines.
7. To the extent that the complex Chapter 11 procedures referenced herein conflict with the Local Bankruptcy Rules, these Procedures shall control in Complex Chapter 11 Cases.

APPENDIX C

GUIDELINES ESTABLISHING CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES FOR CASES DESIGNATED AS COMPLEX CHAPTER 11 CASES

After the Court has reviewed the initial pleadings and conducted its initial status conference at the hearing on First Day Matters, the debtor's counsel shall submit, within the time prescribed by the Court, a proposed "Order Establishing Case Management and Administrative Procedures for Cases Designated As Complex Chapter 11 Cases" containing the following guidelines:

A. DEFINITION OF "DEBTOR"

1. Any reference to the term "debtor" in these Guidelines shall include any trustee appointed in the case.

B. OMNIBUS HEARING DATES

2. The Court may conduct omnibus hearings on a weekly/bi-monthly/monthly basis as dictated by the circumstances of the case (the "Omnibus Hearing Dates"). To the extent possible, all matters requiring a hearing in the case shall be set for and be heard on Omnibus Hearing Dates unless alternative hearing dates are approved by the Court for good cause shown.
3. Omnibus Hearing Dates may be modified by the Court as it deems appropriate for management of the case.
4. If a movant does not schedule its matter on an Omnibus Hearing Date and the matter is filed at least 21 days prior to an Omnibus Hearing Date, the matter will be scheduled for the Omnibus Hearing Date. If the matter is filed less than 21 days prior to an Omnibus Hearing Date, it will be scheduled for hearing on the next Omnibus Hearing Date thereafter. In either case, the movant must provide all interested parties with notice of the corrected hearing date and file a certificate of service. This paragraph shall not apply to any matter for which the Court has set a different hearing date.

5. If any person fails to comply with the terms of an Order establishing a hearing for a particular date and time, the debtor's counsel shall, within three business days of the receipt of such filing, forward a copy of the Order Establishing Case Management and Administrative Procedures to such person.

C. EXPEDITED HEARINGS

6. If a party in interest believes that a motion requires a hearing on less than the 21 days required [D.N.J. LBR 9013-1\(c\)](#), the moving party should follow the procedure required by [D.N.J. LBR 9013-1\(e\)](#) in order to obtain an earlier hearing date.
7. The Court will attempt to rule on the request for shortened time within 24 hours of the time it is presented. If the Court grants the motion for expedited hearing, the underlying motion will be set at the next available Omnibus Hearing Date or at some other appropriate shortened date approved by the Court.
8. Requests for expedited hearings will be granted only under emergency or exigent circumstances.
9. This section does not apply to matters addressed in an Application For Expedited Consideration of First Day Matters. For such matters, parties are directed to consult the Guidelines Governing First Day Matters, set forth in [Appendix A](#) to D.N.J. LBR 6003-1.

D. NOTICING PROCEDURES

10. All filings, unless otherwise ordered by the Court, shall be served upon the following entities constituting the "Core Service List":
 - (a) The debtor(s);
 - (b) The debtor's counsel;
 - (c) The Newark office of the United States Trustee for Region III;
 - (d) The chairperson of any official committees established pursuant to 11 U.S.C. § 1102;
 - (e) Counsel retained by any official committees established pursuant to 11 U.S.C. § 1102, or the twenty largest creditors if an official committee for unsecured creditors has not been appointed;
 - (f) Counsel to any secured creditors; and
 - (g) Any other person or entity as authorized by the Court.
11. The debtor's counsel must maintain and update the Core Service List at least every 14 days during the first 60 days of the case and at least every 30 days thereafter. Further, the debtor's counsel must file with the Court a Core Service List every time it is updated.
12. The debtor's counsel shall maintain and update a master service list (the "Master Service List") comprised of the Core Service List and the parties that have filed a notice of appearance and request for notices in the case. Service on the persons/entities listed on the Master Service List shall be made only with respect to those matters enumerated in the Order Establishing Case Management and

Administrative Procedures. The debtor's counsel must update the Master Service List at least every 14 days during the first 60 days of the case and at least every 30 days thereafter. Further, the debtor's counsel must file with the Court the Master Service List each time it is updated.

13. The certificate of service for each filing must be filed with the Court together with the complete service list that was utilized and served for the filing but said certificate of service is not to be served on the recipients of the filing.
14. Whether filed conventionally or electronically, a summons and complaint or the initiating motion in a contested matter shall be served pursuant to Fed.R.Bankr.P. 7004 upon all parties having a particularized interest in the subject of the filings or motions and upon all parties listed on the Core Service List.
15. All notices required by subdivisions (a)(2), (3) and (6) of Fed.R.Bankr.P. 2002 and by Fed.R.Bankr.P. 4001 and 6007 shall be served upon:
 - (a) Each entity designated on the Core Service List;
 - (b) When the notice relates to a proposed use, sale, lease or abandonment of property, each entity designated on the most recent Master Service List and each entity having a lien, encumbrance or interest in the property;
 - (c) When the notice relates to relief from the stay in order to take action against property of the debtor's estate, each entity having a lien, encumbrance or interest in the subject property;
 - (d) When the notice relates to use of cash collateral or obtaining credit, each entity which has an interest in the cash collateral and each entity which has a lien, encumbrance or other interest in property on which a lien is proposed to be granted;
 - (e) When the notice relates to a proposed compromise or settlement, each entity which is a party to the compromise or settlement and each entity designated on the most recent Master Service List; and
 - (f) When the notice relates to compensation or reimbursement of expenses, each professional seeking compensation or reimbursement and each entity designated on the most recent Master Service List.
16. The Office of the United States Trustee for Region III—New Jersey Office must be served with the following documents in hard copy format regardless of whether the United States Trustee's Office receives same electronically:
 - (a) Petition;
 - (b) Schedules and Statement of Financial Affairs;
 - (c) All First Day Matters and supporting pleadings and documents thereto;
 - (d) Monthly Operating Reports;
 - (e) Chapter 11 Plan and Disclosure Statement; and
 - (f) Fee applications.

E. NEGATIVE NOTICING PROCEDURES

17. The Court may approve notice procedures which provide that if no objections are timely filed and served by a deadline set in accordance with the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, or an Order Establishing Case Management and Administrative Procedures, the Court may enter an order granting the relief requested without further notice or a hearing (“Negative Notice”). The notice accompanying such motion must specify the objection deadline and provide that if no objections are filed and served, the Court may enter an order granting the motion without further notice or hearing.
18. “Negative Notice” may be used in connection with motions, including but not limited to the following matters:
 - (a) Rejection of a non-residential real property lease or executory contract pursuant to 11 U.S.C. § 365;
 - (b) Retention and employment of a professional pursuant to 11 U.S.C. §§ 327 and 328;
 - (c) Extension of a deadline for removal of a claim or cause of action pursuant to Fed.R.Bankr.P. 9027;
 - (d) Sales of assets outside the ordinary course of business pursuant to 11 U.S.C. § 363 where the purchase price does not exceed a designated amount; and
 - (e) Approval of settlements and compromises pursuant to Fed.R.Bankr.P. 9019 where the settled amount of the claim does not exceed a designated amount.
19. If an objection is timely filed and served, a hearing will be scheduled for the next Omnibus Hearing Date unless otherwise ordered by the Court.
20. If the objection date has passed and no objection has been filed or served, the movant’s counsel may file the Local Form *Certification of No Objection* stating that no objection has been filed or served on the movant.
21. By filing such certifications, the movant’s counsel is representing to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court’s docket and that no objection appears thereon.
22. Upon receipt of the Certification of No Objection, the Court may enter the Order accompanying the motion without further pleading or hearing, and upon entry of the Order, the hearing scheduled on the motion or application shall be cancelled without further notice.

F. NOTICE OF AGENDA

23. If the Court has authorized a Notice of Agenda to be utilized, the debtor’s counsel shall maintain, file and serve the Local Form *Notice of Agenda* for each hearing in conformity the guidelines set forth below (F.24 - F.31) unless modified or otherwise directed by the Court to the contrary.

24. The debtor's counsel shall file a proposed Notice of Agenda before 12:00 Noon on the day that is two business days before the Omnibus Hearing Date.
25. Resolved or continued matters shall be listed ahead of unresolved matters on the Notice of Agenda. Contested matters shall be listed in the order of docketing with corresponding docket number.
26. All amended Notices of Agenda shall list matters as listed in the original Notice of Agenda with all edits and additional information listed in **boldface type**.
27. Copies of the Notice of Agenda shall be served, simultaneously with the filing of the Notice of Agenda with the Court, upon all parties who have filed an appearance or who have a direct interest in any matter on the Notice of Agenda and upon the United States Trustee.
28. For each motion and/or application, the Notice of Agenda shall indicate the movant and/or the applicant, the nature of the motion and the docket number. Supporting papers of the movant/applicant shall be similarly denoted.
29. For each motion/application, the Notice of Agenda shall indicate the objection deadline and any objection filed and its docket number, if available.
30. For each motion/application, the Notice of Agenda shall indicate whether any or all of the objections have been resolved, whether the matter is going forward, whether a continuance is requested (and any opposition to the continuance if known), and any other pertinent status information.
31. When a matter in an adversary proceeding is scheduled, the Notice of Agenda shall indicate, in addition to the information regularly required in a Notice of Agenda, the adversary proceeding number and the corresponding docket number for adversary proceeding pleadings on the Notice of Agenda.

G. PRO HAC VICE APPLICATIONS

32. An application for permission to practice *pro hac vice* before the Court must be served upon each entity designated on the Core Service List, and it may be granted by the Court without a hearing unless an objection to the application is filed within seven days of the service of the application.

H. MODIFICATION OF ORDER

33. Any party may at any time move for reconsideration or modification of the Order Establishing Case Management and Administrative Procedures. Service of said motion shall be made upon all persons/entities on the Master Service List. The Court may amend the Order Establishing Case Management and Administrative Procedures from time to time as necessary.

D.N.J. LBR 6004-1 SALE OF ESTATE PROPERTY

- (a) The trustee, debtor in possession, or an authorized representative shall attend and monitor the bidding process at all auctions of estate property.
- (b) In a Chapter 13 case, an **Information for Notice of Private Sale of Real Property** may include a request to pay at closing, the fees or commissions of a duly retained real estate broker or debtor's real estate attorney.
- (c) The Guidelines for Sale of Estate Property, set forth in the **Appendix** to this Rule, apply in Chapter 11 cases.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 7(f).

2004 Comment: Subsection (b) is added in conjunction with the 2004 amendment to D.N.J. LBR 2016-1(j)(5) which allows, exclusively in a Chapter 13 case, a real estate broker or debtor's real estate attorney, retained pursuant to D.N.J. LBR 2014-1, to include a request for reasonable fees to be paid upon closing, in the debtor's Information for Notice of Private Sale. The notice of private sale pursuant to Fed. R. Bankr. P. 2002(a) will include the requested real estate broker's commission as a percentage of the sale price, and/or the debtor's real estate attorney's fee, as well as the date of the respective orders of appointment. A request for approval of a section 363(f) sale requires the filing of a motion (Fed. R. Bank. P. 6004(a)), in addition to the Information for Notice of Private Sale (2002(a)). Moreover, where debtor's counsel seeks entry of an order authorizing debtor to sell real property and pay certain professionals at closing, a motion will accompany the filing of the Information for Notice of Private Sale. The Court retains its discretion, on a case-by-case basis, to require the filing of an application for fees and expenses pursuant to D.N.J. LBR 2016-1, setting forth a statement of services rendered and itemization of expenses incurred by the real estate broker or debtor's closing attorney.

2011 Comment: The provisions of the appendix to subsection (c) were previously contained in the Court's General Order Adopting Guidelines for Sale of Estate Property. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order Adopting Guidelines for Sale of Estate Property should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court amended D.N.J. LBR 6004-1 to add subsection (c) and incorporate the provisions of the General Order, with some minor changes, in an appendix to the rule. Pursuant to D.N.J. LBR 1001-1(b), the Court may modify the Guidelines and any related Forms in order to accommodate a specific case.

APPENDIX

GUIDELINES FOR SALE OF ESTATE PROPERTY

The following guidelines apply to the sale of property of the estate in chapter 11 cases.

- (a) Applicability of Guidelines. Except as otherwise provided in the Local Bankruptcy Rules, these Guidelines apply to motions to sell property of the estate under 11 U.S.C. § 363 (“Sale Motions”); motions seeking approval of sale, bid, or auction procedures in anticipation of an auction and a proposed sale (“Sale Procedures Motions”); and motions seeking approval of sale, bid, or auction procedures as part of a Sale Motion (“Sale and Procedures Motions”).
- (b) Definition of “Debtor.” Any reference to the term “debtor” in these Guidelines shall include any trustee appointed in the case.
- (c) Sale Motions. Except as otherwise provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, or an Order of the Court, all Sale Motions shall attach or include the following:
 - (i) Provisions to Be Addressed. The Sale Motion must address material terms of the proposed sale, including but not limited to the following:
 - (A) Terms of Sale. The Sale Motion must identify the property to be sold and the purchase price.
 - (B) Conditions of Sale. The Sale Motion must disclose and describe any conditions to the sale, including but not limited to whether the sale is conditioned on the consent of a bank or lending institution,
 - (C) Closing and Other Deadlines. The Sale Motion must identify any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction.
 - (D) Good Faith Deposit. The Sale Motion must state whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which such deposit may be forfeited.
 - (E) Tax Exemption. The Sale Motion must (a) disclose any provision seeking under 11 U.S.C. § 1146(a) a declaration that the sale is exempt from taxes; and (b) disclose the type of tax for which the exemption is sought.
 - (F) Record Retention. If the debtor proposes to sell substantially all of its assets, the Sale Motion must address whether the debtor will retain, or have reasonable access to, its books and records to enable it to administer its bankruptcy case.
 - (G) Assumption and Assignment of Contracts and Leases. The Sale Motion must identify any executory contracts or unexpired leases which will be assumed and assigned in connection with the sale pursuant to 11 U.S.C. § 365.
 - (H) Credit Bid. The Sale Motion must disclose any provision by which the debtor seeks to allow credit bidding pursuant to 11 U.S.C. § 363(k).
 - (I) Broker Fee. The Sale Motion must address whether a broker or sales agent will receive a fee in connection with the sale.
 - (ii) Special Provisions. The Sale Motion must include, in addition to the material terms of the sale listed in section (c)(i) above, a section entitled “Special Provisions,” which must list

any and all of the terms of the type set forth below, and must (a) state whether the proposed form of sale order and/or the underlying purchase agreement effectuates a sale or contains any provision of the type set forth below, (b) identify the location of any such provision in the proposed form of order or purchase agreement, and (c) state the justification for the inclusion of such provision.

- (A) Sale to Insider. If the proposed sale is to an insider, as defined in the 11 U.S.C. § 101(31), the Sale Motion must (a) identify the insider, (b) describe the insider's relationship to the debtor, and (c) set forth any measures taken to ensure the fairness of the sale process and the proposed transaction.
 - (B) Agreements with Management. If a proposed buyer has discussed or entered into any agreements with management or key employees regarding compensation or future employment, the Sale Motion must (a) disclose and describe the material terms of any such agreements, (b) state whether such terms comply with 11 U.S.C. § 503(c), if applicable, and (c) disclose and describe what measures have been taken to ensure the fairness of the sale and the proposed transaction.
 - (C) Releases. The Sale Motion must disclose any provisions pursuant to which an entity is being released or claims against any entity are being waived or otherwise satisfied.
 - (D) Private Sale/No Competitive Bidding. The Sale Motion must state whether an auction is contemplated, and disclose and describe any provision pursuant to which the debtor has agreed not to solicit competing offers for the property subject to the Sale Motion or to otherwise limit shopping of the property.
 - (E) Interim Agreements with Proposed Buyer. The Sale Motion must disclose and describe any provision providing for an interim agreement between the debtor and the proposed purchaser, such as an interim management arrangement (which, if out of the ordinary course, also must be subject to notice and a hearing under 11 U.S.C. § 363(b)), and the terms of such agreements.
 - (F) Use of Proceeds. The Sale Motion must disclose any provision pursuant to which the debtor proposes to release sale proceeds on or after the closing without further Court order, or to provide for a definitive allocation of sale proceeds between or among various sellers.
 - (G) Sale of Avoidance Actions. The Sale Motion must disclose and describe any provision pursuant to which the debtor seeks to sell or otherwise limit its rights to pursue avoidance claims under chapter 5 of the Bankruptcy Code.
 - (H) Requested Findings as to Successor Liability. The Sale Motion must disclose and describe any provision limiting the proposed purchaser's successor liability.
 - (I) Sale Free and Clear of Unexpired Leases. The Sale Motion must disclose and describe any provision by which the debtor seeks to sell property free and clear of a possessory leasehold interest, license or other right.
 - (J) Relief from Bankruptcy Rule 6004(h). The Sale Motion must disclose any provision whereby the debtor seeks relief from the 14 day stay imposed by Fed.R.Bankr.P. 6004(h).
- (iii) A copy of a proposed form of sale order; and
- (iv) A request, if necessary, for the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332.

- (d) Sale Procedures Motions/Sale and Procedures Motions. The debtor may, by the filing of a Sale Procedures Motion, request entry of an order (a “Sale Procedures Order”) approving bidding and auction procedures in anticipation of an auction and a proposed sale, or may, by the filing of a Sale and Procedures Motion, request entry of an order (a “Sale and Procedures Order”) approving bidding and auction procedures as part of a Sale Motion.
- (i) Provisions to Be Addressed. A Sale Procedures Motion or a Sale and Procedures Motion must address material provisions of any Sale Procedures Order or Sale and Procedures Order. The title of a material provision in such a Motion must appear in **boldface type**. Material provisions include, but they are not limited to, the following:
- (A) Provisions Governing Qualification of Bidders. Any provision governing the qualification of an entity as a qualified bidder, including but not limited to an entity’s obligation to:
- (1) Deliver financial information by a stated deadline to the debtor and other key parties (ordinarily excluding other bidders).
 - (2) Demonstrate its financial ability to consummate a sale.
 - (3) Maintain the confidentiality of information obtained from the debtor or other parties or execute a non-disclosure agreement.
 - (4) Make a non-binding expression of interest or execute a binding agreement.
- (B) Provisions Governing Qualified Bids. Any provision governing the qualification of a bid as a qualified bid, including but not limited to:
- (1) Any deadlines for submitting a bid and the ability of a bidder to modify a bid not deemed a qualified bid.
 - (2) Any requirements regarding the form of a bid, including whether a qualified bid must (a) be marked against the form of a stalking horse agreement or a template of the debtor’s preferred sale terms, showing amendments and other modifications (including price and other terms), (b) be for all of the same assets or may be for less than all of the assets proposed to be acquired by an initial, or stalking horse, bidder or (c) remain open for a specified period of time.
 - (3) Any requirements that a bid include a good faith deposit, the amount of that deposit and the conditions under which the good faith deposit is not refundable.
 - (4) Any other conditions that the debtor requires for a bid to be considered a qualified bid or to permit a qualified bidder to bid at an auction.
- (C) Provisions Providing Bid Protections to “Stalking Horse” or Initial Bidder. Any provisions providing an initial or “stalking horse” bidder a form of bid protection, including but not limited to the following:
- (1) No-Shop or No-Solicitation Provisions. Any limitations on the debtor’s ability or right to solicit higher or otherwise better bids.
 - (2) Break-Up/Topping Fees and Expense Reimbursement. Any agreement to provide or seek an order authorizing break-up or topping fees and/or expense reimbursement, and the terms and conditions under which any such fees or expense reimbursement would be paid.

- (3) Bidding Increments. Any provision establishing the amount of the initial overbid and any successive bidding increments.
- (4) Treatment of Break-Up and Topping Fees and Expense Reimbursement at Auction. Any requirement that the stalking horse bidder, when bidding at the auction, receive a “credit” equal to the breakup or topping fee and or expense reimbursement, and in such case, whether the stalking horse, upon submitting a higher or otherwise better bid than its initial bid at the auction, is deemed to have waived any such fee and expense.
- (D) Modification of Bidding and Auction Procedures. Any provision that would authorize the debtor, without further order of the Court, to modify any procedures regarding bidding or conducting an auction.
- (E) Closing with Alternative Backup Bidders. Any provision that would authorize the debtor to accept and close on alternative qualified bids received at an auction in the event that the bidder selected as the successful bidder at the conclusion of the auction fails to close the transaction within a specified period.
- (ii) Required Provisions Governing the Auction. Unless otherwise ordered by the Court, the Sale Procedures Order or the Sale and Procedures Order shall:
 - (A) Specify the date, time and place at which the auction will be conducted and the method for providing notice to parties of such terms and any changes thereto.
 - (B) Provide that each bidder participating at the auction will be required to confirm that it has not engaged in any bad faith or collusion with respect to the bidding or the sale.
 - (C) State that the auction will be conducted openly and that all parties in interest will be permitted to attend.
 - (D) Provide that bidding at the auction will be documented, recorded or videotaped.
 - (E) Specify pursuant to **D.N.J. LBR 2014-1** the terms of retention and compensation of any auctioneer or liquidator.
 - (F) Specify the date on which the Court will consider whether to confirm the results of the auction and whether to approve the sale.

D.N.J. LBR 6005-1 APPRAISERS & AUCTIONEERS

- (a) No auctioneer shall be directly or indirectly interested in the sale or purchase of any of the assets or property of the estate being administered.
- (b) In all sales at public auction the personal property shall first be offered in bulk. After the bidding in bulk is completed, the property shall be offered for sale in lots set forth in the original lotting and selling sheets. Copies of lotting and selling sheets shall be available for prospective purchasers the day of the sale.
- (c) Upon completion of the sale, the auctioneer shall deliver to the trustee or debtor in possession all cash or its equivalent received from the sale and the original selling or lotting sheets. The auctioneer shall be liable for the collection and payment of the proceeds of sale. The original selling sheets shall contain an itemized statement of the property offered for sale, the names and addresses of the bulk bidders and the amounts of the bids, the name and address of the highest bidder for each lot, the price bid or received for each lot and the total amount bid or received for all lots.
- (d) No property shall be delivered to the successful bidder until payment of the balance of the bid price. All funds collected by the auctioneer on the date of delivery shall be promptly remitted to the trustee or debtor in possession, together with a list setting forth the amount of each payment and from whom such payment was received.
- (e) A successful bidder shall deposit with the auctioneer the required percentage deposit as announced before the sale. All deposits and final payments shall be made in cash, certified check or bank check. The terms of sale shall be announced by the trustee or auctioneer before the sale. All advertisements shall specify the conditions, including the monetary terms of the sale.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 7(d), (e), (g), (h), and (i).

Reference: [**D.N.J. LBR 2016-1, 6004-1.**](#)

D.N.J. LBR 6007-1 ABANDONMENT

A trustee or debtor in possession seeking approval to abandon property of the estate shall file Local Form, *Notice of Proposed Abandonment*. The clerk shall send notice in accordance with Fed. R. Bankr. P. 6007 of the proposed abandonment.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 15.

2010 Comment: This rule is amended to eliminate the reference to "D.N.J. Local Forms 5 and 6," by substituting the caption of the Local Form.

Reference: 11 U.S.C. § 554 Abandonment of property of the estate.

D.N.J. LBR 7001-1 ADVERSARY PROCEEDINGS - GENERAL

A party or attorney filing a complaint or third party complaint shall prepare a summons and notice of pretrial conference conforming to **Form B250B** of the Director of the Administrative Office as authorized by Fed. R. Bankr. P. 9009 and file the complaint and summons with the clerk for the issuance of the summons and notice of pretrial conference.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 2(e)(1).

2012 Comment: In light of the emergence of ECF as the primary means for filing papers, the expression “deliver the complaint and summons to the clerk” is changed to “file the complaint and summons with the clerk.”

Reference: Fed. R. Civ. P. 4 Summons; Fed. R. Civ. P. 16 Pretrial Conferences, Scheduling, Management; Fed. R. Bankr. P. 7004 Process, Service of Summons, Complaint; Fed. R. Bankr. P. 7016 Pretrial Procedure; Formulating Issues.

D.N.J. LBR 7003-1 COVER SHEET

Unless it is filed through CM/ECF, each complaint shall have attached an official bankruptcy cover sheet, **Form B-104**, which shall be provided by the clerk on request.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 2(e)(2).

2012 Comment: The Rule required all plaintiffs to attach a cover sheet to the complaint. In light of the emergence of ECF as the primary means for filing complaints, D.N.J. LBR 7003-1 is amended to reflect that the plaintiff's attorney (or plaintiff *pro se*) need not file a cover sheet if the complaint is filed through CM/ECF.

**D.N. J. LBR 7005-1 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS –
ELECTRONIC CASE FILING SYSTEM**

- (a) Participants in the Court’s electronic case filing system (ECF), by accepting a login and password from the Court, waive their right to service by personal service or first class mail and agree to electronic service, except with regard to service of process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004 and the initiating motion in a contested matter under Fed. R. Bankr. P. 9014. The waiver of service and notice by first class mail includes notice of the entry of an order or judgment under Fed. R. Bankr. P. 2002.
- (b) A party may make service upon a Participant in the Court’s electronic case filing system under Fed. R. Civ. P. 5(b)(2)(E) made applicable to bankruptcy cases pursuant to Fed. R. Bankr. P. 7005, through the Notice of Electronic Filing automatically generated by the Court’s transmission facilities.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: This Rule is amended at subsection (a) by adding the last sentence in order to reflect in its entirety, the requirements of **Section 1.B.6** of the Court’s *Administrative Procedures for Filing, Signing, and Verifying Document by Electronic Means* updated August 1, 2011 set forth in the Appendix to D.N.J. LBR 5005-1.

D.N.J. LBR 7026-1 DISCOVERY- GENERAL

The provisions of **Local Civil Rules 26.1 and 37.1** of the District Court Rules may be applied in adversary proceedings in the discretion of the Court.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 5.

D.N.J. LBR 7055-1 ENTRY OF DEFAULT AND DEFAULT JUDGMENT

- (a) *Entry of Default.* To obtain **entry of default** pursuant to Fed. R. Civ. P. 55(a), the party moving for entry of default shall file with the Clerk of the Court an application requesting entry of default, together with a supporting affidavit listing all defaulting parties and alleging the following:
- (1) The party against whom default is sought has been properly served with a summons and a complaint.
 - (2) The party has failed to plead or otherwise defend within the allowed time and that time has run.
 - (3) The party has not requested or has not been granted an extension of time to plead or otherwise defend.
- (b) *Entry of Default Judgment.* In addition to the filing of an application requesting entry of default, along with supporting affidavit, the party seeking the entry of a default judgment shall file with the Clerk of the Court an application for default judgment containing the following:
- (1) A request to enter default judgment.
 - (2) An affidavit in support of default judgment, executed by an individual having personal knowledge of the facts set forth therein, which sets forth with specificity each element of at least one cause of action asserted in the initial pleading. The supporting affidavit must comply with 50 App. U.S.C. § 521 regarding defendant's military status. The affidavit must also allege that the defendant is not an infant or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared in the action.
 - (3) Appropriate documentary evidence to support the allegations in the affidavit.
 - (4) A proposed form of judgment.
- (c) *Notice.* Notice shall be served in accordance with Fed. R. Civ. P. 55(b)(2).
- (d) *Proof Hearing.* Chambers shall advise the party seeking entry of a default judgment of the time and date of a proof hearing, if required.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1999 Comment: This new Rule is intended to amplify and clarify the procedures to obtain the entry of default and default judgment pursuant to Fed. R. Civ. P. 55(a) and (b), respectively, made applicable to adversary proceedings pursuant to Fed. R. Bankr. P. 7055. Compliance with this new Rule should ease the burdens on both Chambers and the Clerk's office by reducing the number of nonconforming pleadings which must be returned to counsel with remedial instructions.

Subdivisions (a) and (b) detail the content of the pleadings and supporting documentation required to obtain the entry of default and a default judgment.

Subdivision (d) is intended to clarify that a default judgment may be entered upon the submission of pleadings and supporting documentation conforming to the provisions of the Rule, without a proof hearing, unless the Court notifies counsel that a proof hearing is required.

2009 Comment: Subdivision (b)(2) relating to default judgments for persons in service is amended to conform with the omission of 50 App. U.S.C.A. § 520. These issues are now governed by 50 App. U.S.C. A. § 521.

References: Fed. R. Bankr. P. 7054 Judgment; Costs.
Fed. R. Bankr. P. 7055 Default.
50 App. U.S.C. § 520. Default Judgments; Affidavits; Bonds; Attorneys For Persons in Service.

D.N.J. LBR 7067-1 REGISTRY FUND

(a) Registry Funds

Registry funds maintained pursuant to 28 U.S.C. § 2041 shall include, but shall not be limited to:

- (1) Unclaimed distributions in chapter 7, 12 or 13 cases remaining unpaid 90 days after the final distribution.
- (2) Monies to be held in escrow pending resolution of a particular dispute before the Court.

(b) Receipt of Funds

- (1) No money shall be sent to the Court or its officers for deposit in the court's registry without a court order signed by the presiding judge in the case or proceeding.
- (2) Unless provided for elsewhere in this Order, all monies ordered to be paid to the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.
- (3) The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the clerk of Court.

(c) Investment of Registry Funds

- (1) Where, by order of the Court, funds on deposit with the court are to be placed in some form of interest-bearing account, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts, shall be the only investment mechanism authorized.
- (2) Money from each case deposited in CRIS shall be "pooled" together with those on deposit with Treasury to the credit of other courts in CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury in an account in the name and to the credit of the Director of Administrative Office of the United States Courts, hereby designated as custodian for CRIS.
- (3) An account for each case will be established in CRIS titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account's principal and earning has to the aggregate principal and income total in the fund. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in CRIS and made available to litigants and/or their counsel.

(d) Registry Investment Fee

- (1) The custodian is authorized and directed to deduct, for maintaining accounts in CRIS, the registry fee. The proper registry fee is to be determined on the basis of the rates published by the Director of the Administrative Office of United States Courts as approved by the Judicial Conference.

- (2) If registry fees were assessed against the case under the old 45-day requirement prior to deposit in CRIS, no additional registry fee will be assessed.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 12.
- 2009 Comment: Former Subsection (b) has been eliminated as duplicative of **D.N.J. LBR 3011-1 (a)**. Former Subsections (c) and (d) have been renumbered as subsections (b) and (c).
- 2011 Comment: This rule is amended effective August 1, 2011 to provide notice to the bar and public corresponding to the transition from prior investment procedures as set forth in the Amended Order Regarding Deposit and Investment of Registry Funds dated, May 18, 2011 (effective May 19, 2011), which supersedes and abrogates all prior orders of this Court regarding the deposit and investment of registry funds, including the General Order Adopting the Court Registry Investment System ("CRIS"), dated November 16, 2009.
- Reference: 11 U.S.C. § 347(a) Unclaimed property; Fed. R. Bankr. P. 3011 Unclaimed Funds in a Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt, and Chapter 13 Individual's Debt Adjustment Cases.

D.N.J. LBR 8006-1 DESIGNATION OF RECORD - APPEAL

If an appellant fails to timely file the designation and statement required by Fed. R. Bankr. P. 8006, the clerk shall file a certification of such failure with the clerk of the District Court and serve same upon all parties to the appeal.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 13.

Reference: Fed. R. App. P. 16 Appeal in Bankruptcy Case from a Final Judgment, Order or Decree of a District Court or a Bankruptcy Appellate Panel; Fed. R. Bankr. P. 8007 Completion and Transmittal of Record; Docketing of the Appeal.

D.N.J. LBR 9004-1 PAPERS - REQUIREMENTS OF FORM

All petitions, pleadings, schedules and other documents filed in paper form, shall be legibly typewritten, printed or reproduced. The papers shall be of standard weight and shall have an upper margin of not less than 1-1/2 inches. No such document may be stapled or similarly fastened so as to cause punctures in the paper.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly Local Rule 2(a)(1).

2001 Comment: This Rule amendment is intended to facilitate the imaging process when utilized in conjunction with the electronic case filing system.

D.N.J. LBR 9004-2 CAPTION - PAPERS, GENERAL

- (a) All papers, including motions, complaints, orders, judgments, letters, and briefs shall set forth a caption, and the title shall include a specific reference to the subject of the paper and shall state the hearing date as follows: "Hearing Date: , 20__."
- (b) All papers shall set forth the case number, chapter, initials of judge assigned and, when applicable, the adversary proceeding number. In the case of motions, the notice of motion and any answering papers shall state below the hearing date either "oral argument requested" or "oral argument waived."
- (c) All pleadings commencing with the original petition shall contain in the top left margin the typewritten or printed name, address, and telephone number of the attorney of record for the filing party, and the identity of the party represented, or, if a party is appearing pro se, the typewritten or printed name, address and telephone number of such party.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 2(a)(2), (3), and (4).
- 2001 Comment: This Rule amendment substitutes reference to the year "20__" for the year "19__."
- 2012 Comment: D.N.J. LBR 9004-2 previously required attorneys to list in all pleadings the last four digits of his or her social security number. In 2012, the Court deleted this requirement because, among other reasons, (i) the District Court deleted such requirement in its own applicable Local Civil Rule in 2007; (ii) in registering for CM/ECF, an attorney must provide his or her State Bar Association identification number, and not his or her social security number; and (iii) there is a risk, however remote, of disclosure or detection of the attorney's social security number from the last four digits.

D.N.J. LBR 9013-1 MOTION PRACTICE

- (a) *General Provisions.* An application to the Court for an order requiring notice and opportunity for hearing shall be by motion. Every motion shall state the time and place returnable, the grounds upon which it is made, and the nature of the relief sought. A motion shall be deemed uncontested unless responsive papers are timely filed in accordance with subdivision (d). A proposed form of order shall accompany the moving papers, except as provided in **D.N.J. LBR 9072-1(b)**.
- (b) *Scheduling.* An application by motion except in a chapter 13 case shall be made returnable on a regular motion day before the judge to whom the case has been assigned. Motions shall be heard on the regular motion days as assigned by each judge and as set forth on the Court's website www.njb.uscourts.gov. A motion in a chapter 13 case shall be made returnable on a date assigned by the Court. A motion not timely filed pursuant to subdivision (c) will be scheduled for the next motion day.
- (c) *Time and Place of Filing.* All moving papers shall be filed in the vicinage of the case. Such papers shall be filed and served at least 21 days before the return date, except as provided in Fed. R. Bankr. P. 3007.
- (d) *Responsive Papers; Cross Motions.*
 - (1) All answering papers and cross-motions shall be filed and served at least 7 days before the return date. All cross motions shall be deemed contested. No motion shall be designated as a cross motion unless it is related to the original motion.
 - (2) All reply papers, as well as answering papers to a cross- motion, shall be filed and served at least 4 days before the return date. Upon the request of a party, the Court may enlarge the time for the filing of answering and reply papers.
- (e) *Orders Shortening Time.* An application under Fed. R. Bankr. P. 9006(c) for an order shortening time for hearing on a motion shall be submitted with the moving papers in a form substantially the same as Local Forms, *Application for Order Shortening Time* and *Order Shortening Time Period For Notice and Setting Hearing*. Use of orders to show cause shall be limited to adversary proceedings in accordance with **D.N.J. LBR 9075-1**.
- (f) *Oral Argument.* Unless a party requests oral argument or the Court otherwise directs, all motions shall be decided on the papers. All parties must state their intentions regarding oral argument in the moving or answering papers.
- (g) *Telephone Conference.* The Court, on its own motion or on a party's request, may direct argument of any motion by telephone conference without Court appearance. A verbatim record shall be made of all such telephone arguments.
- (h) *Motion for Reconsideration.* A motion for reconsideration shall be filed within 14 days of the entry of the Court's order or judgment on the original motion. The motion shall be filed with a memorandum setting forth concisely the matters or controlling decisions which the movant believes constitute cause for reconsideration. A timely motion for reconsideration shall be deemed to be a motion under Fed. R. Bankr. P. 8002(b).

- (i) *Testimony.* Unless the Court authorizes or directs otherwise prior to the return date, no testimony shall be taken on a motion except by certification or affidavit under Fed. R. Civ. P. 43(e) and Fed. R. Bankr. P. 9017. Notwithstanding the foregoing, live testimony may be taken on a motion under Code § 363(c) or § 364 without prior authorization from the Court.
- (j) *Consent Order in Lieu of Motion.*
 - (1) Requests to the Court for an order on which all parties who are entitled to notice have affixed their written consent may be presented by application without motion or hearing. The application shall explain the grounds for entry of the order.
 - (2) Notwithstanding subsection (j) (1) of this rule, a consent order in lieu of a motion under Code § 363(e) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 7 days to serve an objection. The proponent of the consent order must simultaneously submit a separate certification of service to the Court indicating service on the 20 largest unsecured creditors. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code § 363(e).
- (k) *Duty to Confer.* If a motion is contested, the movant shall confer with the respondent prior to the hearing to determine whether a consent order may be entered disposing of the motion, or, in the alternative, to stipulate the resolution of as many issues as possible.
- (l) *Duty to Report Settlement or Withdrawal.* If a motion is settled or withdrawn, the movant shall inform the Court immediately by telephone, and send written confirmation promptly thereafter.
- (m) Any motion seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall specifically state in the caption of the motion whether the movant seeks a waiver of the 14 day stay of the effectiveness of any proposed order for the relief sought under Federal Rules of Bankruptcy Procedure 4001(a)(3), 6004(h) or 6006(d). The movant shall bear the burden of establishing cause for the waiver of the 14 day stay provisions and shall detail the cause in its moving papers.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

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| 1997 Comment: | Formerly Local Rule 3(a) through (h), and (j) through (m). |
| 1999 Comment: | Subsection (h) of this rule was amended. The amendment substituted the word "entry" for the word "filing" in the first sentence to be consistent with the federal rules of civil and bankruptcy procedure. |
| 2004 Comment: | Subsection (j)(2) is amended to require that the proponent of the consent order in lieu of motion under Code § 363(e) in a Chapter 11 case, simultaneously submit a separate certification of service to the Court indicating service on the 20 largest unsecured creditors, where the consent order in lieu of motion is filed, without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed, and the 20 largest unsecured creditors have been served with the application and consent order providing 5 days to file and serve an objection. |
| 2008 Comment: | Subsection (d) of this rule is amended to require that the proponent of a reply or answer to a cross-motion file and serve such papers at least 4 days before the return date of the original motion. |

- 2009 Comment: Subsection (d) of this rule is amended to clarify the time required for filing and service of a reply or answer to a cross-motion. Subsection(m) is amended to conform with Fed. R. Bankr.P. 6004(h) stating an order authorizing the use, sale or lease of property other than cash collateral for ten days unless the court orders otherwise.
- Dec., 2009 Comment This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.
- 2010 Comment: This rule is amended to eliminate the reference to "D.N.J. Local Forms 1 and 2," by substituting the captions of the Local Forms.
- 2012 Comment: This rule is amended at subsection (b) to eliminate the reference to Monday as the regular motion day for all three vicinages and to provide that the regular motion day(s) for each Judge will be as designated by each Judge and set forth on the Court's website. Before making a request for an adjournment of a hearing, an attorney or party should review D.N.J. LBR 5071-1, which addresses continuance of a hearing.
- Reference: Fed. R. Bankr. P. 5005 Filing and Transmittal of Papers; Fed. R. Bankr. P. 9006 Time; Fed. R. Bankr. P. 9014 Contested Matters; Fed. R. Bankr. P. 9001(7) and 9021.

D.N.J. LBR 9013-2 BRIEFS & MEMORANDA OF LAW

All moving papers, answering papers, and cross-motions shall include a brief, or a statement that no brief is necessary and the reasons therefor. The brief shall be a separate document.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: This rule is new and is derived from Local Rule 3(c) and (d).

2001 Comment: This Rule amendment is intended to maintain and clarify the current requirement that a brief is to be a separate document whether submitted electronically or in paper form.

D.N.J. LBR 9013-3 CERTIFICATE OF SERVICE - MOTIONS

- (a) All moving papers, answering papers, and cross motions, including those filed electronically, must be supported by a certificate of service. The **certificate of service** shall identify the relationship to the case of each party served.
- (b) Where service is accomplished through the Notice of Electronic Filing pursuant to **D.N.J. LBR 7005-1(b)** upon a Participant in the Court's electronic case filing system, the certificate of service must indicate that the document was electronically filed and the manner in which the party was served.
- (c) The certificate of service shall be a separate document.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: This rule is new and is derived from Local Rule 3(c) and (d).
- 1998 Comment: The second sentence of this rule was added [April 1998]. It is intended to facilitate the court's meaningful review of the certification of service. The service list should identify the name of the party served, the address of the party served, and the party's relationship to the case. For example:
- | | |
|--|--------------------|
| John Doe, Esq. | Jane Doe |
| 123 Main Street | 456 Main Street |
| Anytown, USA 12345 | Anytown, USA 12345 |
| Attorney for Secured Creditor,
Big Bank, N.A. | Unsecured Creditor |
- 2001 Comment: This Rule amendment is intended to clarify that where electronic case filing is utilized, a certificate of service may be filed subsequent to the filing of the moving papers, answering papers, and cross motions.
- 2004 Comment: This Rule amendment specifies that the Court requires a certificate of service to be filed with respect to documents filed electronically indicating the manner in which the party was served. It also requires the certificate of service to be a separate document, thereby precluding inclusion of the certificate within the pleading.
- Reference: Fed. R. Civ. P. 5 Service and Filing of Pleadings and Other Papers; Fed. R. Bankr. P. 7005 Service and Filing of Pleadings and Other Papers.

D.N.J. LBR 9015-1 JURY TRIALS

Where a party to a case or proceeding demands a trial by jury, the party making the demand shall, within 90 days after serving the demand, (i) file with the Clerk of the Bankruptcy Court the consent of all parties to trial by jury in the Bankruptcy Court, (ii) move pursuant to **D.N.J. LBR 5011-1** for withdrawal of the reference of the case or proceeding by the District Court, or (iii) move to extend the time. The failure of a party to file or move as required by this rule constitutes a waiver by the party of trial by jury.

D.N.J. LBR 9019-2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

(a) Register of Mediators.

- (1) The clerk shall maintain a register of eligible individuals who wish to serve as mediators.
- (2) An individual may be eligible for appointment to the register upon the filing of an application for appointment to the register demonstrating the qualifications of the individual as mediator and satisfactory completion of such training as may be required from time to time by the Court.
- (3) The register of eligible mediators shall be reviewed and approved by the Court periodically and shall be posted by the clerk in each vicinage.

(b) Compensation of Mediators.

- (1) Mediators shall be compensated at the rate two hundred (\$200) dollars per hour, unless otherwise ordered by the Court.
- (2) In the event that the parties to mediation and the mediator agree on an hourly rate in excess of or less than two hundred dollars (\$200), the order of referral for mediation shall indicate the agreed hourly rate of the mediator, if in the opinion of the Court such rate is reasonable.
- (3) The parties shall share the charges of the mediator equally, unless otherwise provided in the order allowing the mediator's compensation.
- (4) A mediator seeking compensation shall comply with the requirements of **D.N.J. LBR 2016-1(a)**.
- (5) A copy of the mediator's application for compensation shall be served on each party to the mediation.

(c) Referral to Mediation.

- (1) An adversary proceeding or contested matter may be referred to mediation either by joint request of the parties or by the Court at a status conference or other hearing.
- (2) Where the parties consent to mediation, they shall file an **application** and **consent order**, as allowed by **D.N.J. LBR 9013-1(j)**, requesting referral to mediation and designating a mutually acceptable mediator and alternate selected from the current register. If the parties are unable to agree on a mediator and alternate, the application shall request selection by the Court from the current register.
- (3) Where mediation is directed by the Court, on its own motion, the parties shall confer and attempt to designate a mutually acceptable mediator and alternate from the current register. If the parties cannot agree, the Court shall appoint a mediator and alternate.

(d) Mediation Procedure.

- (1) *Conflicts.* Within 7 days of the filing of the referral order, the mediator shall determine whether he or she is disqualified. Disqualification shall include, but not be limited to, acting as trustee in the case or in the case of an insider or affiliate of the debtor. If the mediator determines that he or she is disqualified, the mediator shall promptly file a notice of disqualification, serving copies on the parties and the alternate, and the alternate shall become the mediator.

- (2) *Time and Place.* The mediator shall fix a time and place for the mediation conferences which are reasonably convenient for the parties and shall serve written notice of the initial conference at least 14 days before the return date. The conference shall be commenced as early as practicable, and in any event not more than 45 days following the entry of the referral order. Upon consent of all parties, the mediator may adjourn the conference and inform the Court, in writing, of the need for adjournment and the new date(s) .
- (3) *Information Statement.* Each party shall prepare an information statement which shall contain the following:
- (A) A copy of the pleading setting forth the party's cause of action or defense;
 - (B) A list of all witnesses upon which the party would rely at trial, and a summary of their expected testimony;
 - (C) Copies of the principal exhibits upon which the party would rely at trial; and
 - (D) A statement, not exceeding 3 pages, of the principal rules of law upon which the party relies.
- Where an exhibit is voluminous, a *summary* may be provided. The submission of a *summary* of expected testimony shall constitute a certification by the attorney that he or she, or other counsel of record for the party, has personally spoken with the witness or has reviewed a written statement of the witness, deposition transcript, or interrogatory answers signed by the witness, and believes in good faith that the witness will testify substantially in conformity with the *summary*.
- The information statement shall be served on the mediator and all parties at least 7 days before the initial conference. The information statement shall not be filed, shall not be construed as a pleading, shall not satisfy any discovery obligation, and shall not limit the evidence the parties may use at trial, if mediation does not result in settlement. No responsive or supplemental statements shall be permitted.
- (4) *Attendance by Attorneys.* The attorney with primary responsibility for representation in the proceeding or matter to be mediated shall personally attend the conference(s). Attorneys shall be prepared to discuss in detail and in good faith the following:
- (A) All liability issues;
 - (B) All damages issues; and
 - (C) Authorized parameters for settlement.
- (5) *Attendance by Parties.* An individual party who resides within the vicinage of the case shall personally attend the mediation conference(s) unless excused by the mediator for cause. A party, other than an individual, whose principal place of business is located in the vicinage of the case shall attend the mediation conference(s) through a representative with authority to negotiate. All other parties shall be available for consultation with their attorneys and the mediator by telephone.
- (6) *Caucus.* The mediator shall decide which parties and/or attorneys shall be present, and the nature of any caucus sessions.
- (7) *Failure to Attend.* A party's willful failure to attend the mediation conference(s) shall be reported to the Court by the mediator and may result in the imposition of sanctions by the Court.

- (8) *Privilege.* All proceedings or writings of the mediation conference, including the information statement, mediator's settlement recommendation, and any statement made by any party, attorney or other participant, shall in all respects be privileged and not reported, recorded, placed in evidence, communicated to the Court or jury, where applicable, or construed for any purpose as an admission against interest.
- (9) *Settlement Recommendations.* The mediator may, but need not, make oral or written recommendations for settlement. Attorneys shall confer with their parties to review the mediator's recommendations and to determine whether a consent order or stipulation may be entered disposing of the adversary proceeding or contested matter or resolving as many issues as possible.
- (e) *Completion of Mediation.* Upon completion of the mediation conference(s), the mediator shall inform the Court, **in writing**, whether the parties have reached agreement to settle the adversary proceeding or contested matter. If settlement has been reached, the mediator shall direct the preparation of a consent order or stipulation containing the terms of settlement, which shall be filed.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

- 1997 Comment: Formerly Local Rule 17.
- 2002 Comment: Subsections (b)(1) and (b)(2) of this rule were amended. The amendments increased the mediators hourly rate of compensation from one hundred and fifty (\$150) to two hundred dollars (\$200) per hour.
- Dec., 2009 Comment This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

D.N.J. LBR 9027-1 REMOVAL

- (a) *Notice of Removal; Where Filed.* A party wishing to remove a claim or cause of action from a state or other federal court to the Bankruptcy Court shall file a “Notice of Removal” with the Clerk of the Bankruptcy Court.
- (b) *Procedure after Removal.* Within fourteen days of the filing of the Notice of Removal, the party filing the Notice of Removal shall file, or cause to be filed, with the Clerk of the Bankruptcy Court, certified copies of all records and proceedings relating to the claim or cause of action in the court from which the claim or cause of action was removed.
- (c) *Notice.* The Notice of Removal shall be served in the manner provided for in Fed. R. Bankr. P. 7004 and **proof of service** shall be filed with the Bankruptcy Court.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: This Rule was adopted in 2011 to implement a local procedure pursuant to Fed. R. Bankr. P. 9027. It seeks to highlight that all cases sought to be removed to the Bankruptcy Court are to be filed directly with the Clerk of the Bankruptcy Court as defined under Fed. R. Bankr. P. 9001(3) and not with the Clerk of the District Court to be referred to the Bankruptcy Court. Consistent with Fed. R. Bankr. P. 9027(e)(2), the rule also puts in place a procedure after removal that directs the party filing the Notice of Removal to file with the Clerk of the Bankruptcy Court, copies of all records and proceedings relating to the claim or cause of action in the court from which the claim or cause of action was removed.

D.N.J. LBR 9037-1 REDACTION OF PERSONAL DATA IDENTIFIERS

- (a) In accordance with Fed. R. Bankr. P. 9037(a), counsel, parties and other who make filings with the Court must exercise their responsibility to redact Personal Data Identifiers from documents before filing with the Court.
- (b) Upon recognizing that a Personal Data Identifier or other sensitive information has been filed with the Court, in contravention of the filing party's redaction responsibilities pursuant to Fed. R. Bankr. P. 9037(a), counsel, parties and others who make filings with the Court, shall notify the Clerk by telephone of the intent to request redaction and within two (2) business days thereof, shall file a motion for a protective order pursuant to 11 U.S.C. § 107(c) and Fed. R. Bankr. P. 9037(d), requiring redaction of the information from the filed original document and seeking to limit remote access to the filed original document.
- (c) Upon receiving telephonic notice of the intent to request redaction, the Clerk may place a temporary block on access to the document, pending the filing and resolution of the motion for protective order. The document shall not be made electronically available to the public until the motion is granted and the redaction provided, or until the motion is denied.
- (d) If the Court enters a protective order, the movant or other party as the Court may direct, shall within 10 days of the issuance of the protective order, submit a redacted document(s) to the Courtroom Deputy by Chambers email or by conventional mail which shall be made available for viewing by the public. The movant or other party as the Court may direct, shall redact the Personal Data Identifiers from the document as follows:
 - Social Security numbers to the last four digits;
 - Taxpayer Identification numbers to the last four digits;
 - Financial account numbers to the last four digits;
 - Names of minor children to the initials;
 - Dates of birth to the year;
- (e) If a Motion for a Protective Order is not filed within two (2) business days of the telephonic notice of the intent to redact, the Court and parties will assume redaction of Personal Data Identifiers is not requested and the original filed document will be made available electronically on the third business day after the telephonic notice of the intent to redact, unless the Court, for good cause extends that period pending the filing of a motion for protective order.
- (f) A party to a case or adversary proceeding may order transcripts of Court proceedings from the transcriber.
 - (1) The transcriber shall electronically file the transcript to the Court's CM/ECF system and simultaneously provide a copy to the ordering party. Other parties may order a copy of the transcript from the Court or directly from the transcriber.
 - (2) Access to transcripts filed with the Court shall be restricted for a period of 90 days to allow parties the opportunity to review the transcript for Personal Data Identifiers prior to the transcript being made available to the public.
 - (3) It is the responsibility of each party to monitor the Court's docket for the filing of an official transcript and to review the transcript for Personal Data Identifiers.

- (4) Within seven (7) days of the filing of the transcript by the transcriber, a party shall inform the Court by filing a *Notice of Intent to Request Redaction* of the party's intent to redact Personal Data Identifiers. (The form *Notice of Intent to Request Redaction* may be found on the Court's website: www.njb.uscourts.gov under "Forms".) A party is responsible for reviewing the opening and closing statements made on behalf of the party, any statements made by the party, and the testimony of any witnesses called by the party.
- (5) Within twenty-one (21) days of the filing of the transcript, or longer if the Court so orders, the party having filed the *Notice of Intent to Request Redaction* shall file with the Court and serve on the transcriber a *List of Items to be Redacted* indicating the transcript page, paragraph and line in which the *Personal Data Identifiers* appear and the manner in which they are to be redacted. (The form *List of Items to be Redacted* may be found on the Court's website: www.njb.uscourts.gov under "Forms").
- (6) Upon receipt of the *List of Items to be Redacted*, the transcriber shall redact the Personal Data Identifiers from the transcript as follows and file the redacted transcript with the Court.
 - Social security numbers to the last four digits;
 - Financial account numbers to the last four digits;
 - Names of minor children to the initials;
 - Dates of birth to the year.
- (7) During the twenty-one (21) day period, or longer if the Court so orders, a party may file a motion for additional requested redactions to a transcript. The transcript shall not be available electronically until the Court has ruled upon any such motion.
- (8) If a timely *Notice of Intent to Request Redaction* and *List of Items to be Redacted* are filed, access to the original transcript shall be permanently restricted to Court personnel only. Access to the redacted transcript shall be made available electronically 91 days after the filing.
- (9) If a *Notice of Intent to Request Redaction* is not filed, access to the original transcript will be made available electronically 91 days after filing.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: The provisions of subsets (a) through (e) of this rule were previously contained in the Court's General Order Governing Redaction Procedures Pursuant to 11 U.S.C. § 107(c) and Fed. R. Bankr. P. 9037, dated November 25, 2009. The provisions of subset (f) of this rule were previously contained in the Court's Amended General Order Governing Transcript Redaction Procedures Under Judicial Conference Privacy Policy, dated December 1, 2009. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the above General Orders should be addressed in a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 9037-1 to incorporate the provisions of these two General Orders.

D.N.J. LBR 9072-1 ORDERS - PROPOSED

- (a) Any order or judgment must be a separate document. The title of an order or judgment shall identify the nature of the relief granted.
- (b) The Court may approve standard forms of order and judgment pursuant to Fed. R. Bankr. P. 9021. When a decision by the Court is identical to that provided in any such standard form of order or judgment, and includes no additional relief or ruling, the clerk shall prepare, sign and enter an order or judgment on the appropriate form as directed by the Court. Where use of a standard form of order or judgment is required under this subdivision, there shall be no substitution for, or modification or supplementation of such form without the express consent of the Court.
- (c) Except as provided in subdivision (b), if the ruling on a motion or application differs from that reflected in any proposed orders which have been submitted, the prevailing party or applicant shall file and serve a revised form of order within 7 days of the Court's decision. If the prevailing party or applicant fails to do so, any other party may file and serve such form of order.
- (d) If all parties consent to the form of an order submitted under subdivision (c), the correspondence transmitting such order shall so state in bold face or upper case type, and such order shall be signed and entered in the discretion of the court. In all other cases under subdivision (c), all parties served with such order shall have 7 days to file and serve an objection and alternative form of order. A hearing may be conducted on the objection in the Court's discretion.
- (e) Any proposed order seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall not include a waiver of the 14 day stay provisions provided in Federal Rule of Bankruptcy Procedure 4001(a)(3), 6004(h), or 6006(d) unless cause for relief from the stay is specifically plead in the moving papers. The caption of the proposed order must state the order waives the 10 day stay provisions contained in the applicable Federal Rule.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

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| 1997 Comment: | Formerly Local Rule 4. |
| 2001 Comment: | This Rule amendment substitutes the phrase "shall be signed and entered in the discretion of the court" for the phrase "shall be signed and entered forthwith." |
| 2009 Comment: | Subsection (e) is amended to eliminate reference to the Interim Rule 6004(h) by its adoption into the Federal Rules of Bankruptcy Procedure as of December 1, 2008. |
| Dec., 2009 Comment | This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the |

Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: [D.N.J. LBR 4001-1\(d\)](#) Automatic Stay - Relief From; Fed. R. Bankr. P. 9022 Notice of Judgment or Order.

D.N.J. LBR 9072 -2 ORDERS PROPOSED - ELECTRONIC CASE FILING SYSTEM

- (a) Orders submitted under **D.N.J. LBR 9072-1(c)** shall be directed to the presiding judge's electronic mail box designated for this purpose. The address box of the electronic mail shall reflect the names of the parties served. If any party is not served electronically, the filer must serve a copy of the order on that party conventionally and indicate such service in the electronic correspondence directed to the presiding judge's electronic mail box.
- (b) Pursuant to the requirements of **D.N.J. LBR 9072-1(d)**, if all parties consent to the form of an order submitted electronically, the electronic correspondence transmitting such order shall so state in bold face or upper case type, and such order shall be signed and entered in the discretion of the court. In all other cases under subdivision (a), all parties served with such order shall have 7 days to submit and serve an objection and alternative form of order to the presiding judge's electronic mail box. A hearing may be conducted on the objection in the Court's discretion.
- (c) All proposed forms of order, whether submitted electronically or conventionally, must substantially conform with the **order template** and accompanying directions maintained by the Court and made available on the Court's website **www.njb.uscourts.gov**.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

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| 2001 Comment: | This Rule is new and is intended to provide a procedure for orders submitted by electronic means under D.N.J. LBR 9072-1(c). |
| Dec., 2009 Comment | Subsection (b) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov . |
| 2011 Comment | In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order Approving Use of Template for Submission of Proposed Forms of Order (dated March 27, 2002), should be addressed in a local rule. As a result, on August 1, 2011, the Court amended D.N.J. LBR 9072-2 to add subdivision (c) and incorporated the provisions of the General Order into this local rule. |

D.N.J. LBR 9075-1 EMERGENCY ORDERS

Use of orders to show cause shall be limited to adversary proceedings in which immediate injunctive relief is requested.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

1997 Comment: Formerly part of Local Rule 3(e).

Reference: Fed. R. Bankr. P. 7001 Scope of Rules of Part VII.

CHRONOLOGY TABLE

DATE	COMMENT
April 15, 1997	Rules amended and renumbered.
April, 1998	Rules 3011-1 and 9013-3 amended.
January, 1999	Rules 7055-1 added and 9013-1(h) amended.
January, 2000	Rule 4001-1(b)(3) amended.
March 8, 2001	Rule 3015-6 added and Rule 2016-1(j) amended.
May 30, 2001	Rules 5005-1 and 9072-2 added; Rules 1001-1, 1007-2, 9004-1, 9004-2, 9013-2, 9013-3 and 9072-1 amended.
June 28, 2002	Rule 1073-1 amended.
September 18, 2002	Rules 2004-1 and 9019-2 amended.
January 2, 2003	Rule 9015-1 added
May 12, 2003	Rules 3015-1 and 3015-6 amended
July 2, 2003	Rules 1002-1, 1007-2, 1009-1, 1019-1, 2016-1, 3016-1, 3016-2, 5005-2 amended. Rules 7005-1, 9013-1(m) and 9072-1(e) added. Rule 1007-1 deleted.
August 1, 2004	Rules 1002-1, 2016-1, 3016-1, 3018-2, 6004-1, 7005-1, 9013-1 and amended.
August 1, 2005	Rules 2016-1, 3015-6 and 4001-1 amended.
August 1, 2006	Rules 2016-1, 2090-1, 3015-6, 4001-1 amended. Rule 3003-2 added.
August 1, 2007	Rules 1073-1 and 9072-1 amended.
August 1, 2008	Rules 1009-1, 2014-1, 2016-1 and 9013-1 amended.
August 1, 2009	Rules 1002-1(a)(6), 2014-1(b), (c) and (d); 2016-1(g), 3011-1(a) and (b), 3015-1(b), 7005-1(b), 7055-1(b)(2), 7067-1(b), (c) and (d); 9013-1(d) and (m); and 9072-1(e) amended.

DATE	COMMENT
December 1, 2009	Amendments made to Local Rules 2014-1, 2016-1, 2090-1, 3015-1, 3015-2, 4001-1, 5071-1, 9013-1, 9019-2, 9072-1 and 9072-2 to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days.
August 1, 2010	Rules 1007-2, 2016-1, 3003-2, 3015-1, 3021-1, 4001-1, 6007-1, 9013-1 amended. Appendix A added.
August 1, 2011	The Judicial Conference of the United States promulgated <i>Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules</i> . The Local Rules subcommittee of the Lawyers Advisory Committee (LAC) applied the <i>Guidelines</i> to this court's General Orders and Local Rules, resulting in 12 of the following 14 amendments. Rules 1001-1, 2016-1, 4001-1, 5005-1, 6004-1, 7005-1, 7067-1 and 9072-1 amended. Rules 4001-2, 4001-3, 4001-4, 6003-1, 9027-1 and 9037-1 added. Appendix A is incorporated into Rule 2016-1.
August 1, 2012	Rules 3002.1-1, 3002.1-2 and 4001-5 are new rules. Rules 1001-1, 1009-1, 1073-1, 3003-2, 3007-1, 3016-1, 7001-1, 7003-1, 9004-2 and 9013-1 have been amended.